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OFFICIAL REPORT
(HANSARD)

Wednesday, October 3, 2001

THE HONOURABLE DAN HAYS
SPEAKER



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THE SENATE

Wednesday, October 3, 2001

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

We ask for God's blessing on all who mourn or suffer, with confidence that the human family is sustained and renewed by Divine Love.

SENATORS' STATEMENTS

STATEMENT BY MAJOR RELIGIOUS GROUPS OF BRITISH COLUMBIA

Hon. Mobina S. B. Jaffer: Honourable senators, I am making a statement today at the same time as a statement is being made in the House of Commons by Mr. Stephen Owen, Member of Parliament for Vancouver Quadra. This is a statement sent by major religious groups in British Columbia. The statement reads as follows:

God Keep our Land
A Call to Justice, Peace & Solidarity

Canada is founded on the affirmation that God alone is supreme, and that the rule of law must be preserved.

This affirmation is the foundation of the rights and freedoms we enjoy as one nation of diverse peoples. Our acknowledgement of God's supremacy and the rule of law calls us forever to renew our commitment to justice, peace and solidarity.

The attack upon the United States of America on September 11th, 2001 was calculated to uproot the whole human family.

This horrific affront was intended to make neighbours look upon each other with suspicion and hatred; to make us abandon our vocation to be united under God's love. Many people have died, innocent families have been left vulnerable to bigotry and violence, and a shadow has fallen over our ability to live together as citizens.

We affirm that God's justice and mercy are infinite, surpassing human power in majesty and perfection.

We affirm our solidarity as leaders in diverse faith communities, and urge our brothers and sisters to enrich the common good with brave new works of peace, mutual understanding and material assistance.

We call upon all Canadians to join their prayers and their good will, to guard against prejudice and hatred, to befriend and support each other.

RECOGNITION OF PEOPLE IN TRANSPORTATION INDUSTRY

Hon. Pat Carney: Honourable senators, on Monday, October 8, Canadians celebrate Thanksgiving, when we reflect on our many blessings of family, friends and country. Many Canadians give thanks for the right to live and love, work and pray, and achieve and contribute in a country so awesome in its magnificence, so generous in its opportunities that we have been able to live for generations in peace and plenitude.

I should like to give special thanks to all those Canadians who serve us in our transportation industry, so necessary to our national prosperity, purpose and unity. In the last few weeks I have travelled extensively by air, rail, ferry and bus on Senate business. Everywhere I have found those transportation personnel who help us to travel to where we want to go on business or pleasure to be exemplary in the performance of their work.

In particular, I wish to thank the flight crews and others in the aviation industry who have served us so well, particularly in the stressful weeks since September 11, when, for the first time, our sense of security was breached in many parts of our homeland by the terrorist attacks in New York and Pennsylvania.

• (1340)

Flight crews have proved to be one of the most vulnerable sectors in the war against terrorism in the last few years, yet they continue to serve us with their superb skills and training, transporting us to wherever the flight plan takes us. They are in command of their aircraft but, like their passengers, these crews are dependent on the skills and professionalism of others in the aviation industry, including the air traffic controllers, the meteorologists, the ground and freight handling personnel, security forces and agents, the caterers, cleaners and the "rampees," or ramp service agents, who handle our luggage. They have been the unsung heroes and heroines of the last few weeks, performing their tasks with efficiency, cheerfulness and an unflinching sense of professionalism.

Again, in my experience, I have found those aviation personnel who serve the public to be endlessly courteous in the last few difficult days. No matter how long the airport lineups, people have been processed with calmness and reassurance. No matter how many cancellations have been necessary, airline reservation clerks have been patient and helpful. If delays and disruptions have affected our lives, so also the lives and plans of the flight crews who have been assigned to take us wherever we need to go.

Honourable senators, our thanks should extend to the rail, ferry and bus crews who have also weathered the disruptions of the last few weeks with similar courtesy and helpfulness. We are lucky to have people of their calibre in their jobs, and we should give them special recognition at this time of thanksgiving.

CONFERENCE ON WOMEN IN THE CRIMINAL JUSTICE SYSTEM

Hon. Landon Pearson: Honourable senators, on Monday, October 1, I attended the first day of a three-day conference on women in the criminal justice system organized by the Canadian Association of Elizabeth Fry Societies and the Canadian Association of Sexual Assault Centres. I was there to learn more about justice for young girls in trouble with the law and problematic approaches to the protection of children exploited in the sex trade, two issues of deep concern to me. I was also there to hear the voices of women from the margins of society who so rarely have an opportunity to speak out about the abuse, exploitation and neglect that have characterized their childhoods, conditions that often underlie law-breaking behaviour in adolescence and adulthood. I was not there, however, to hear a virulent, anti-American, demagogic diatribe. I greatly lament that this should have occurred at an event that, in other respects, fully merited our government's support.

As a member of the opening panel, which was supposed to be international, I had already had my five minutes to speak about respecting the rights of both boys and girls to be protected from violence and humiliation and to discuss the upcoming United Nations Special Session on Children. Minister Hedy Fry had spoken eloquently and compassionately about racism and discrimination, and an Aboriginal woman had spoken about the misery of her early life.

The calculated rant to which we were then subjected came as a stunning shock. Neither Minister Fry nor I were surprised, of course, by rhetoric about colonialism and oppression. We have often heard that before, but the vicious attack on our neighbours to the south was conveyed in a tone such as I have never heard before at a public event. As the daughter of an American mother, I was deeply wounded, and on behalf of what I am sure is the vast majority of Canadians, I repudiate both the tone and the sentiment of this ugly tirade.

I am further distressed that the publicity accorded this speech may have tarnished all the good the conference was hoping to achieve by promoting dialogue on issues related to women in the prison system and, even worse, suffocated the voices of girls and women who had something quite different to say.

Under most circumstances, honourable senators, I would have walked out on such a speech, but I could not walk out on women who had come, often from long distances, to tell us their painful stories.

RESPONSE OF GOVERNMENT TO TERRORIST ATTACKS ON UNITED STATES

Hon. David Tkachuk: Honourable senators, our country is facing its greatest challenge since the Second World War. The two major policy announcements by the government regarding the terrorist attacks of September 11 were made outside of Parliament. In the House of Commons, the Prime Minister continues to answer questions about government policy by suggesting that these questions are mere attempts by the opposition parties in the House to politically profit from a terrible situation. Political leaders, therefore, are forced to explain their policy, as did Mr. Clark recently, with letters to the national newspapers.

Honourable senators, the Canadian people remain unsure of the government's position. Some may still believe that terrorism may not wash up on our shores, but it will. As a member of NATO, our response should be the same as though these acts were committed against our own countrymen.

The government's inability to articulate the will of Canadians to rid this world of these evil forces has been lacking and has not been stated in a way that engenders confidence in our Parliament or in our country. I am, therefore, asking the opposition parties in the House of Commons to call an emergency national opposition meeting as soon as possible to present a united front in the House of Commons to hold the government accountable and to present a united program to ensure the safety and security of our citizens.

This united caucus is necessary and will provide needed support for our men and women in the Armed Forces, the RCMP, CSIS and others. It will push the government to provide the security needed at our borders, present a united front in committees, settle issues of intelligence in air transportation, and provide a coherent response to the paramount issue in Canada of home security.

Many in the opposition parties have differences of opinion that in the recent past may have seemed insurmountable. Yet we have just witnessed a terrible act, immediately south of where a majority of Canada's population resides, that presents a clear and present danger to our country. We must provide to the Canadian people an alternative, one that is prepared to govern if our present government fails in this task or loses the confidence of the Canadian people. We owe that to Canada.

A new strength and determination will force the present government to consult and to defend its actions in Parliament rather than at fundraising dinners and on *Larry King Live*. For those in the Liberal caucus who have been disappointed — and there are some — with their executive's response in governing this issue, this is an opportunity to consult with and join forces with other Canadians who, acting together, can contribute meaningfully during the terrible situation with which we are all forced to deal.

Honourable senators, there are times in the business of a nation when bold steps are necessary, and this situation demands those steps.

[Translation]

ROUTINE PROCEEDINGS

ADJOURNMENT

The Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Thursday, October 4, 2001 at 1:30 p.m.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

INTERNATIONAL BOUNDARY WATERS TREATY ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-6, to amend the International Boundary Waters Treaty Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Corbin, bill placed on the Orders of the Day for second reading on two days hence.

DEFENCE AND SECURITY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY HEALTH CARE SERVICES AVAILABLE TO VETERANS AND TO APPLY DOCUMENTATION FROM PREVIOUS SESSION TO STUDY

Hon. Michael A. Meighen: Honourable senators, I give notice that on Thursday, October 4, 2001, I will move:

That the Standing Senate Committee on Defence and Security be authorized to examine and report on the health care provided to veterans of war and of peacekeeping missions; the implementation of the recommendations made in its previous reports on such matters; and the terms of service, post-discharge benefits and health care of members of the regular and reserve forces as well as members of the

RCMP and of civilians who have served in close support of uniformed peacekeepers;

That the papers and evidence received and taken on the subject during the Second Session of the Thirty-sixth Parliament be referred to the Committee;

That the Committee report no later than June 30, 2002;

That the Committee be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

[English]

QUESTION PERIOD

CITIZENSHIP AND IMMIGRATION

Hon. John Lynch-Staunton (Leader of the Opposition): Yesterday in Question Period I quoted from the transcript of the previous day's committee hearings on Bill C-11 some of the statements made by the Assistant Deputy Minister for Policy of the Department of Citizenship and Immigration, to the effect that the regulations necessary for the implementation of provisions of Bill C-11 would not be in final form until March of next year at the earliest. The point of bringing that up at the time was to have the government admit that the urgency it has put on the bill is no longer valid, as no regulations, no implementation of the bill.

The assistant deputy minister also pointed out that the regulations are being drafted at this time and that they are hoping to have them for prepublication before the end of the calendar year.

• (1350)

That statement is completely contradicted by the minister herself who, yesterday, during Question Period in the other place, stated that she was ready to go with the regulations which have already been before committee. They are not before a House committee as no committee there has been seized with the regulations. The Social Affairs Committee here, as of 1:15 this afternoon, had not been seized with the proposed regulations.

I ask the Leader of the Government in the Senate to tell us what the facts are. Who is stating the status of the regulations accurately, the assistant deputy minister or the minister?

Hon. Sharon Carstairs (Leader of the Government): It is my understanding that the Standing Senate Committee on Social Affairs, Science and Technology was given a report with respect to regulations, but I understand that it did not include the legal language of those regulations. It included the broad areas for which the regulations would be written to comply with the matters of the act.

Whether the regulations based on that broad general framework will be ready almost as soon as the bill is passed and receives Royal Assent would best be put to the minister herself, who will appear before the Social Affairs Committee tomorrow morning.

Senator Lynch-Staunton: That does not answer my question, honourable senators. Surely if the regulations are before committee, the cabinet would have approved the transmission of those regulations and, if so, the minister here should be aware of their status. Is Minister Caplan accurate when she says:

We are ready to go, virtually ready to go with the regulations which have already been before committee.

What committee have these regulations been before?

Senator Carstairs: The same document that was provided to the Senate committee apparently was also provided to the House of Commons committee. However, as I said earlier, my understanding is that that is not the legal and technical language of the regulations; it describes the broad framework of the regulations. I can only assume that that is what the minister was referring to.

Since the minister is appearing before the committee tomorrow morning, I think we should seek that clarification from the minister at that time.

Hon. Lowell Murray: Honourable senators, I want to know if, to the knowledge of the Leader of the Government in the Senate, the regulations or this description of regulations have been vetted by cabinet or by a cabinet committee. Is it possible that Ms. Caplan was referring to a cabinet committee rather than to a parliamentary committee?

Senator Carstairs: Honourable senators, I cannot give any more information than I have already given. I have seen the document that was distributed to the committee. I glanced at it quickly. It was quite clear that it did not have the normal legal language I would expect regulations to have. To my knowledge, that is the only document that has been circulated and the only document that has been discussed, at least in the House of Commons committee. I have been assured by others in the government that Justice is writing the regulations as quickly as it can.

THE SENATE

HASTE OF HEARINGS OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE ON IMMIGRATION AND REFUGEE PROTECTION BILL

Hon. Douglas Roche: My question is to the Leader of the Government in the Senate. Yesterday, in response to Senator Lynch-Staunton's very legitimate concern about what he called the unseemly schedule of the Social Affairs Committee hearings on Bill C-11, the Leader of the Government said that the bill is receiving a thorough review in the committee. Would that that were the case.

The schedule of witnesses from Monday through to today, culminating, as the Leader of the Government has said, with the minister herself appearing tomorrow morning, is absolutely jammed. This is preventing the committee from, if I can use a famous expression, sober second thought of a bill that has immense implications for the future of Canada. We are told that this bill is being rushed in order that it can be part of Canada's response to the events of September 11. Yet expert witnesses have said that it provides no more in-depth treatment of terrorists than we already have on the books.

We are being told by experts that it has profound implications for how our immigration and refugee system will work. Furthermore, the Canadian Bar Association has said it has profound implications with regard to the Charter of Rights and Freedoms.

I should like to ask the Leader of the Government whether, in view of the unseemly pressure that the committee is under to come to a considered view as to the merits of this bill, she will join those of us who are expressing deep concern about the undue haste of this bill, and urge the minister, before she appears before the committee tomorrow morning, to take her foot off the accelerator and allow the Senate the proper time needed to study this bill of enormous importance for the future of Canada?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the work of the committee is determined by the committee. They have been meeting regularly and, I would be the first to say, putting in extremely long hours in order to deal with this particular piece of legislation. The individuals who have been attending that committee should be congratulated for the effort they are putting in. However, I do not determine, nor does the minister, the work of the committee.

Senator Roche: May I take from that answer from the minister that in fact there is no pressure being exerted by the government to get this bill out of committee tomorrow? Can I take that answer back to the committee this afternoon and say, "We should stop this hurried parade of witnesses and give ourselves more time to consider this bill, and do so over the next three weeks in a reasonable amount of time"?

Senator Carstairs: Honourable senators, I have made my views clear on this bill from the beginning. I think it is an important response to what happened on September 11. I have, quite frankly, urged that the Senate deal with it as quickly as it can.

Having said that, the actual work of the committee is up to the committee.

• (1400)

POSSIBILITY OF BILL ON TERRORISM

Hon. Douglas Roche: Of course, the committee should work with deliberate speed, and I am not suggesting otherwise, but the minister in her last response referred to the tragic events of September 11 as a motive for getting the bill through. Why does the government not bring in a bill on terrorism itself and stop expecting the immigration bill, Bill C-11, to carry the responsibility for terrorism?

Hon. Sharon Carstairs (Leader of the Government): Wait; perhaps the honourable senator's dreams will be fulfilled.

Hon. John Lynch-Staunton (Leader of the Opposition): How can the minister claim that this Bill C-11 is in response to the events of September 11 when it was introduced in the last Parliament nearly two years ago?

Senator Carstairs: Honourable senators, I do not think I said it was a response to September 11. I said it was a good first step in terms of additional tools available to the government that will be useful to them as a result of the events of September 11.

[Translation]

FINANCE

POSSIBILITY OF INTRODUCING BUDGET IN RESPONSE TO CURRENT ECONOMIC SITUATION— CHANGE IN FISCAL POLICY

Hon. Roch Bolduc: Honourable senators, my question is for the Leader of the Government in the Senate. During the year 2000, two budgets were brought down, one in February and the other, a minibudget, in October. That one handed out a little money to everybody. Then the election was called.

Since the second budget, the economic situation as analysed by the Minister of Finance has changed considerably. Major industries such as telecommunications and high tech have been hard hit in the past year. The events of September 11, 2001 have had a negative impact — over and above the immediate damage — on the airlines, tourism and the aviation industry, not to mention the layoffs in the automobile industry and elsewhere. We sense far greater hesitancy among consumers. The financial markets have been hit hard. Third-quarter corporation profits will, it appears, be disappointing, which will accentuate the drop in stock values and the devaluation of assets. The central banks are injecting billions of dollars into the financial system in Washington and Ottawa, in Japan and in the European Union. The Canadian dollar is almost at an all-time low. National security will necessitate considerable additional expenditures. The government is not excluding the possibility of returning to a deficit situation, having predicted that 2002 revenues will not be as expected. The government continues its spending programs as before.

I have recently received press releases from various departments, all of course defending good causes, but all meaning that money is going out: from Canadian Heritage, Justice, Health, Fisheries and Oceans, Agriculture and Agri-Food. Canadians are concerned. They are learning more from what the Prime Minister has to say in speeches to partisan meetings than from the House of Commons.

My question is as follows: Will we soon be getting a budget from the Minister of Finance to give us an up-to-date picture of

the economic situation, its impact on public finances, and changes to the government's fiscal policy?

[English]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, in the May economic update the Minister of Finance provided, he indicated that he would remain vigilant to economic developments and monitor the situation closely. That certainly remains the priority of the Minister of Finance. He has clearly indicated he is prepared to do an economic update this month. We are anticipating that update shortly after we come back from the break, and I should think it will be a comprehensive update, particularly based on the consultations that he has been undertaking over the last few weeks with the private sector.

[Translation]

CHANGES TO BUDGET PROCESS

Hon. Roch Bolduc: Honourable senators, is the government initiating a new process? It brought down two budgets in the course of the year preceding the elections. The following year, it presented none. Between the two elections, it presented a budget, and then, two more for the new election. Is this a new system? Does the government intend to present an economic update in October and then prepare an annual budget for the month of February as has been the case up to now?

[English]

Senator Carstairs: Honourable senators, the Minister of Finance has made the decision that he would like to get back to the normal schedule, which is the economic update in the fall and the budget in February.

FOREIGN AFFAIRS

PARAMETERS OF SPECIAL CABINET COMMITTEE IN RESPONSE TO TERRORIST THREATS

Hon. David Tkachuk: Honourable senators, yesterday I asked a question of the Leader of the Government in the Senate about the terrorist attacks in the United States, the government's response and NATO. As it is reported in Hansard at page 1342, the leader said in part:

Our clear position is that we are NATO partners. We accept the obligations under Article 5...

She went on to say:

Suffice it to say that Minister Manley has been put in charge of a cabinet committee to develop a strategy, to develop policies, and even to develop laws, if necessary, in order to meet not only this terrorist threat, but terrorist threats in the future. We are willing to fulfil our obligations.

I had heard about this committee, so I thought I would check the press release. I could find no press release, which I found strange because this is an important committee. I could not find one in my office. I had the Library of Parliament check with the Prime Minister's Office, and it had no press release either. Therefore, I was forced to go to the regular source, which is the Liberal fundraising dinners, and, sure enough, October 1, in Kingston, there was an announcement made on Minister Manley's subcommittee. This committee is rather far-reaching, and I was wondering what are the parameters of this committee? Is it war effort, home security or military preparedness?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, to answer the latter part of the question first, it is all of those things. With respect to the first part of the question, it is a rare thing for a government to issue a press release about the formation of a cabinet committee.

Senator Tkachuk: Honourable senators, is this committee in charge of our war effort, home security, military preparedness or all three? The leader seemed to imply that in her last response yesterday, but she did not make it clear.

Senator Carstairs: The special committee of cabinet established by the Prime Minister and headed by John Manley, Minister of Foreign Affairs, is bringing together all of the ministers who are clearly players at the table. That includes the Minister of Defence, the Solicitor General, the Minister of Justice and the Minister of Citizenship and Immigration.

Senator Tkachuk: Honourable senators, it is nice to know who the people are, although I am still not sure what this committee will do. Let me ask another question. Why was Minister Manley put in charge and not the Prime Minister?

Senator Carstairs: It is a cabinet committee, and all cabinet committees are chaired by members of the cabinet because they have an overarching responsibility for the duties that have been imposed upon them. For example, the Social Union Committee is chaired by the Minister of Justice, the Economic Union Committee is chaired by the Minister of Natural Resources, and so forth.

Senator Tkachuk: Honourable senators, this is unbelievable. The minister gave names to all these committees, and yet for this subcommittee, which she claims is so important and will carry out obligations under Article 5 of the NATO treaty, develop a strategy and develop policies, she does not say what it will develop strategy, policy or laws upon. Who will this committee report to? Will it report to another committee? Will it report to the Prime Minister? Would the leader ask Mr. Manley to appear before this chamber in Committee of the Whole, because if she will not answer the questions, perhaps he will?

Senator Carstairs: The cabinet committee that Mr. Manley chairs, as with all other cabinet committees, reports to the whole cabinet. That is the process by which it works. That is the process by which it has always worked. I do not believe there is a change. As to their primary duties, one understands that since September 11, the issue of terrorism and our fight against terrorism has not only been of concern to the government, but, I

would suggest, to most Canadians. Clearly, that is the focal point upon which the cabinet committee will work and address as to how we can respond to the needs not only to have adequate security in this country but also to protect us from terrorists wherever they exist.

• (1410)

PRIME MINISTER'S OFFICE

RESPONSE TO TERRORIST ATTACKS ON UNITED STATES

Hon. David Tkachuk: Honourable senators, I have one more question. Yesterday, when I mentioned that Prime Minister Blair had given a clear direction to his country and to his people as to what was expected of them and how they would fight the war on terrorism, the minister said:

Prime Minister Blair was certainly rather hawkish today in terms of his statements to the meeting of his political party. Perhaps it was the setting that brought that out in him.

Considering that two of the major policy statements of the Prime Minister were made to two Liberal Party fundraising dinners, would the Leader of the Government also believe that the setting made Prime Minister Chrétien rather hawkish?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, first, the Prime Minister has been controlled from the first statement he made on September 11. I might add, that he made a statement before a statement was made by the President of the United States.

In addition, it might interest the honourable senator to know that although Prime Minister Blair called the British Parliament back for September 14, it was immediately adjourned and has not met since.

NATIONAL DEFENCE

REPORT OF CONFERENCE OF DEFENCE ASSOCIATIONS— NEED FOR INCREASED DEFENCE SPENDING

Hon. Michael A. Meighen: Honourable senators, my question is also for the Leader of the Government in the Senate. The international coalition led by the U.S. is readying itself for war against terrorism. The American Ambassador to Canada, among others, is now pushing this government to make a real commitment to defence spending. Indeed, the Conference of Defence Associations is reporting that we must make a major increase in defence spending just to maintain our existing military capacity. Considerably more money must be invested if we wish to upgrade and expand our military forces. The Conference of Defence Associations reached these conclusions after reviewing the Department of Defence's internal business plans and reviewing comments made by the chiefs of the land, air and maritime staffs.

Will the government immediately address the shortfalls identified by the report and help make our forces combat ready?

Hon. Sharon Carstairs (Leader of the Government):

Honourable senators, over the last several budgets, the government has put considerably more resources into the hands of the military than had been there in the decisions made in 1993, 1994 and 1995, where, quite frankly, program review brought down the budgets of almost every single department, with the exception of the Department of Indian and Northern Affairs. The government has set itself the goal of ensuring that resources are there for the military.

Honourable senators, it is interesting to note that the honourable senator began his question by speaking about what the American ambassador demands of us. The American ambassador does not set defence policy in Canada. In Canada, defence policy is set by the Canadian government.

Some Hon. Senators: Hear, hear!

Senator Meighen: Honourable senators, appearances to the contrary, that is reassuring to hear. It is also interesting that the American ambassador's words are given some importance in this country, rightly or wrongly, whereas I wonder whether our ambassador's views in the United States are accorded the same importance.

Be that as it may, I am concerned with the dismissal of the Conference of Defence Association's report by the Minister of Defence as being "old think." Those are his words. Given the fact that the report was based on his own chief's assessment and his own department's assessment, his remark is inaccurate and insensitive.

The minister has also been quoted as saying that one of the most serious errors the military can make is to prepare for the last war. Indeed, he is correct.

When might Canadians expect to hear some "new think" from this government and minister as to the new threat posed by worldwide terrorism?

Senator Carstairs: Honourable senators can anticipate to hear some "new think" shortly. However, it is important to put on the record what has been happening with our defence establishment over the last few years. For example, the department has equipped the air force CF-18 fleet with precision-guided munitions; commenced upgrade programs for the CF-18 and the CP-140 Aurora fleets; purchased the Coyote and LAV-III for the army, high-end reconnaissance and light-armoured vehicles respectively; acquired new conventional submarines for the navy; enhanced our command and control and intelligence sharing systems; and opened a deployable joint operation headquarters in Kingston. That is indication that the government is moving in the right direction and is using the savings it has been able to acquire because of good government management. Some of those savings are going to the defence establishment.

Some Hon. Senators: Hear, hear!

ENVIRONMENT

REPORT OF COMMISSIONER OF THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT—DAMAGE CAUSED BY AGRICULTURAL WASTE

Hon. Mira Spivak: Honourable senators, the agriculture waste in Ontario and Quebec alone equals that of a country the size of Japan — that is, 100 million people. We have learned that from the report of the Commissioner of the Environment and Sustainable Development, who has stated that the misuse of manure and fertilizer has already damaged the ecosystem and that the situation is getting worse. There is a tide of waste creeping into the largest body of fresh water in the world, serving 16 million people. That being the case, surely there is some urgency to prevent further damage.

Can the minister tell us about the federal government's plans to address "unsustainable agriculture"? Those are the words of the commissioner, who told us that agriculture as it is presently being conducted is unsustainable.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, like the honourable senator, I read the summary of the report — and I have not had time to read the whole report of the commissioner — with some concern for the future of not only our agriculture viability but also the by-products of that viability and their impact on the entire environmental and ecosystem of our country.

There were also some good news announcements in the reports of both the commissioner and the auditor. They indicated, for example, that Lake Erie, which had been considered a dead lake, is now alive once again. That is good news, but there were certain indications that more must be done. I have been assured that the report is being taken extremely seriously and that it is the desire of the government to work with its provincial partners — because there are provincial partners engaged here — to address the concerns raised by the commissioner.

Senator Spivak: Honourable senators, there is a huge amount of manure getting into ground water and rivers, as the commissioner has stated. She has also stated that this is a federal government problem that the government is not addressing with enough urgency. The issue is quick action because this is a systemic problem. It is a problem that has been going on for some time. It is a problem that Senator Grafstein, for one, has brought to our attention in his bill. However, it needs quick action.

Could the minister bring us back some information as to timelines and the nature of the action to be taken? I know that cannot be done today, but a great number of Canadians are concerned about this issue.

Senator Carstairs: As the honourable senator well knows, because she sits on the Agriculture and Forestry Committee, agriculture is a shared responsibility between the provinces and the federal government. It will be necessary to work with our partners at the provincial level to develop a strategy and to address the issues that have been brought to our attention by the commissioner.

• (1420)

STATUS OF WOMEN

CONFERENCE ON WOMEN IN THE CRIMINAL JUSTICE
SYSTEM—COMMENTS BY FORMER CHAIR OF NATIONAL
ACTION COMMITTEE ON THE STATUS OF WOMEN

Hon. Gerry St. Germain: Honourable senators, my question is directed to the Leader of the Government in the Senate as well. It relates to a statement made here earlier today by a fellow senator about the hostility that seems to have developed in the National Action Committee on the Status of Women. When I was a member of Parliament in the other place and a cabinet minister, I attended meetings of that organization where I observed a hostility toward members of Parliament, regardless of party affiliation. The members of that organization seemed to line up with certain individuals who supported their causes, regardless of how irresponsible the causes were perceived to be by the public.

When I represented 130,000 people in Mission—Port Moody, I could never identify one single person who belonged to this organization. Yet it was funded quite generously by the federal government and has been since. I am not singling out the government of the day as the only contributor to this organization.

The hostility I am speaking of was exhibited in the presence of a cabinet minister and a senator. It is easy to say that the senator should have walked out, but I do not know what I would have done had I been there. I imagine that the shock of the message was enough to keep one seated.

Does the honourable minister not think it is time to reconsider the funding of special interest groups in general, but especially that of those that appear to have developed a deep-rooted hostility toward everyone that is not with them?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I will be very clear. The author of the speech referred to is a former chair of the National Action Committee on the Status of Women. She was not attending the conference on behalf of the National Action Committee on the Status of Women. She was invited because she is a professor at the University of British Columbia and is apparently knowledgeable about issues impacting the lives of women in Third World countries.

Like Senator Pearson, I dissociate myself completely from the remarks made. I do not think they were helpful in contributing to the dialogue in this country that is helping to develop policy.

It is my understanding that organizations like the National Action Committee on the Status of Women no longer receive core funding. They only receive project funding when a project proposal is deemed worthy of support.

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

FORTY-SECOND ANNUAL MEETING—
REPORT OF CANADIAN DELEGATION TABLED

Leave having been given to revert to Tabling of Reports from Inter-Parliamentary Delegations:

Hon. Jeremiah S. Grafstein: Honourable senators, I have the distinct privilege and honour of tabling the report of the Canadian delegation of the Canadian-United States Inter-Parliamentary Group to the forty-second annual meeting held in the Rockies from May 17 to 21, 2001. I commend this report to all senators for careful reading.

ORDERS OF THE DAY

NATIONAL DEFENCE

QUALITY OF FAMILY LIFE IN THE MILITARY—
INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cohen calling the attention of the Senate to the quality of life of the military family and how that quality of life is affected by government actions and by Canadian Forces policy.—(*Honourable Senator Comeau*).

Hon. Norman K. Atkins: Honourable senators, I want to speak for a few moments today on the inquiry set down by our former colleague Senator Erminie Cohen. This inquiry calls the attention of the Senate to the quality of life of the military family and how that quality of life is affected by government actions and by Canadian Forces policy.

As we all know, the improvement of the social and financial condition of Canadians in general, and certainly of our Armed Forces and their families, was near and dear to Senator Cohen's heart. This is an issue on which she worked with Senator Pénin and others.

I should like to speak at some length on this subject after the approaching Thanksgiving break. As Senator Cohen said when she introduced the matter, the aim of this inquiry is consider ways to improve the living conditions of Canada's military family and, in so doing, to celebrate their contribution to Canada. I want to review in detail the report of the Standing Committee of the House of Commons on National Defence and Veterans Affairs entitled "Moving Forward: A Strategic Plan for Quality of Life Improvements in the Canadian Forces" and the government's response to that report.

As well, other studies have been completed on the abuse of women in military families and I believe their conclusions should be brought before the Senate for review.

At this time in our history, when we are preparing for a long and arduous war against terrorism throughout the world, we must be especially cognizant of the needs of the military family unit.

I look forward to speaking on this inquiry in the near future and therefore move the adjournment of this inquiry in my name.

On motion of Senator Atkins, debate adjourned.

• (1430)

AGRICULTURE ISSUES

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Tunney calling the attention of the Senate to Canadian agricultural issues, specifically grain, dairy and hemp.—(*Honourable Senator Sparrow*).

Hon. Herbert O. Sparrow: Honourable senators, I rise to speak for a moment on the inquiry brought forward by Senator Tunney on May 17 calling the attention of the Senate to Canadian agriculture issues. I want to make reference particularly to the loss of jobs in the agriculture industry in Saskatchewan in the last year.

This issue is prompted by the assistance being given to the air industry and Air Canada. The figure being tossed around is that the Canadian government will make a contribution of \$180 million in the first stage to assist the air transportation industry. It is said that Air Canada will be laying off an additional 12,000 people due to its economic problems. These

problems have arisen in the last three weeks, and we have acted very quickly to try to assist that industry.

I am not taking issue with what the government is doing for Air Canada. The devastating effects of the national economy on the agriculture industry in the past year have been brought to the attention of the Senate, the government and the Minister of Agriculture, but nothing has been done. Recent reports indicate that Saskatchewan lost 26,000 jobs in the agricultural industry last year. That is in the province of Saskatchewan alone. We warned that a large number of farms and jobs in the agricultural industry would be lost. This matter certainly has been brought forward by the Standing Senate Committee on Agriculture and Forestry. Senator Gustafson has worked diligently to ensure that this committee and the Senate are aware of these problems. I commend him for that.

I would appeal to the Senate, to the Leader of the Government in the Senate, to all senators and to the Agriculture Committee to continue to bring forward the serious problem that exists in Canada's agriculture industry. Saskatchewan losing 26,000 jobs, in addition to what was lost in the last two to three years, means that the industry is in serious trouble in the West and that it may not survive.

Honourable senators, we talk about the transportation industry being important in Canada. I do not argue with that; I know it is important. However, I would think that in the Canadian context there is nothing more important than the well-being of Canadians. The well-being for the future of Canada rests in the agriculture industry. We must not forget that.

On motion of Senator Milne, debate adjourned.

The Senate adjourned until Thursday, October 4, 2001, at 1:30 p.m.

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OFFICIAL REPORT
(HANSARD)

Thursday, October 4, 2001

THE HONOURABLE ROSE-MARIE LOSIER-COOL
SPEAKER *PRO TEMPORE*



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(Daily index of proceedings appears at back of this issue.)

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THE SENATE

Thursday, October 4, 2001

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

SENATORS' STATEMENTS

THE HONOURABLE FRANCIS WILLIAM MAHOVLICH

TRIBUTE ON RETIREMENT OF SWEATER NO. 27
BY TORONTO MAPLE LEAFS

Hon. Joyce Fairbairn: Honourable senators, last night, over 19,000 cheering fans took to their feet at the Air Canada Centre in Toronto as the Toronto Maple Leafs kicked off their season with a game against the Ottawa Senators. People were on their feet cheering not only for the teams; they were cheering for one of our great hockey legends. His picture and that powerful No. 27 were raised on a banner to the rafters of the Air Canada Centre in honour of our colleague Frank Mahovlich, known to his fans and to those who feared him as the "Big M."

When Senator Mahovlich was appointed to this chamber over three years ago, the Canadian public immediately began to wonder how a famous hockey star and successful businessman would fit in this august institution. My answer then is the same as it is today: Just great.

Honourable senators, Frank Mahovlich has been "just great" in this chamber, in committees and in parliamentary associations. He has been "just great" on the road, giving speeches about what we do here in the Senate and about national issues, enormous pride of country and pride of membership in this place. He has been "just great" in the small towns across this country where he has shown enormous generosity of time and spirit for Canadians of all ages, from the tiniest child to seniors. He shakes their hands and signs their sticks and generally shows them his joy of citizenship and his respect for and love of this country.

Honourable senators, I know that we all congratulate Frank for his ascendancy to the rafters of the Air Canada Centre with other heroes such as Syl Apps, Charlie Conacher and Tim Horton.

The Hon. the Speaker: I am sorry to advise the honourable senator that her three minutes have expired.

Senator Fairbairn: Frank Mahovlich is still on our team.

[Translation]

ADVANTAGES OF CHRYSOTILE ASBESTOS

Hon. Yves Morin: Honourable senators, the tragic events of September 11 affected us all, and a number of my colleagues

have spoken about this here in the chamber. In the weeks following a disaster of this magnitude, it is natural to ask ourselves if it could have been possible to save more lives, with the good intention of planning for the future.

[English]

Recently, in the American press, it has been stated by several experts that had asbestos insulating material been used in the World Trade Center for fireproofing and insulating steel building materials, particularly floor supports, the steel girders would have lasted up to four hours before melting. Instead, the steel frames of One World Trade Center lasted only one hour and 40 minutes while the steel frames of Two World Trade Center lasted 56 minutes before collapsing.

As honourable senators know, the use of asbestos ceased in the 1970s following reports of asbestos workers becoming ill from high exposure to asbestos fibres. This was certainly true in the past for the high occupational levels measured at that time. However, times have changed, and at today's exposure levels, no excess morbidity or mortality has been detected.

[Translation]

In addition, there is staggering evidence indicating that there is a marked difference in the toxicity of amphibole asbestos, which was used in the past, and the chrysotile asbestos that is used today. Chrysotile asbestos in urban ambient air or in public buildings does not appear to cause illness.

Honourable senators, chrysotile asbestos is one of this country's most precious natural resources. We can now affirm that it is safe and that it can save a great number of lives in disasters such as the tragic one that took place September 11.

● (1340)

WOMEN'S HISTORY MONTH

Hon. Lucie Pépin: Honourable senators, since 1992 Canadians have designated the month of October as Women's History Month.

This month provides us with a unique opportunity to highlight the contributions, both past and present, that women have made to Canadian society. The contributions made by women to our country's heritage have often been undervalued. These celebrations provide us with the opportunity to increase our awareness of their achievements.

The theme of this year's Women's History Month is "In praise of Canadian women volunteers." The United Nations has declared 2001 "International Year of Volunteers," and this year's WHM theme has a double meaning. It celebrates key accomplishments in Canadian history by women volunteers. It also acknowledges outstanding volunteer women's organizations which influenced the evolution of Canadian society through volunteering. This acknowledgment is richly deserved, for in Canada 54 per cent of volunteers are women. More than four million Canadian women aged 15 or over take part in formal volunteer activities.

Canadian women's involvement as volunteers is far from new. Native women played a crucial role in the fur trade industry, acting as volunteer interpreters or intermediaries between fur-trade companies and Natives; members of religious congregations looked after orphans and ran hospitals; many women volunteered their services during the two world wars; members of benevolent societies contributed to social and political change in our country. Canadians have played, and continue to play, a vital role as volunteers. That contribution deserves proper recognition.

The high point in the month will be October 18, the day we commemorate the Persons Case, a decisive victory in Canadian women's struggle for equality. As we know, this case led to Canadian women obtaining the right to be appointed to the Senate, and opened the door to participation in other aspects of public life.

Honourable senators, we are delighted to share the work of the Senate with our male counterparts, but we also share the power to make decisions.

WORLD TEACHERS' DAY

Hon. Rose-Marie Losier-Cool: Honourable senators, October 5 is World Teachers' Day. This year, the Canadian Teachers' Federation has selected as its theme, "Teachers building the future."

As guardians of the Canadian education system, teachers can be both the agents and defenders of change in our global society, making it a better place to live. They help shape the future. Canadian boys and girls do not come into the world with the necessary knowledge and characteristics to be members of a democratic society; it is through Canada's teachers that they acquire that knowledge.

[English]

If we want to shape a stable democratic society in the 21st century, our public education system must be a forum where people can meet and learn to live together. Knowing how to get along peacefully is good, but going beyond mere tolerance is still a greater virtue. It requires respect but also a sharing of our cultural, religious and social values. Through sharing, we come to understand and appreciate our differences. What better place is there than our classrooms for young people to develop an appreciation of the world's mosaic?

[Translation]

There is nothing more vital to the quality of education than the quality of teaching. Thanks to the teachers in Canada, our country has one of the world's best systems of education.

CENTENARY OF PASSING OF GIUSEPPE VERDI

Hon. Marisa Ferretti Barth: Honourable senators, this year, we celebrate the centenary of the death of Giuseppe Verdi, the father of lyric opera.

In view of recent events, it seems to me that music does us all good.

Verdi was born in Roncole, in the Emilia Romagna region. He was a renowned composer. His life was one of triumph and pain.

At an early age, his great musical talent made its appearance. He studied music with Vincenzo Lavigna, a composer and musician at La Scala. Verdi presented *Oberto Conte di San Bonifacio* there. The work was well received.

The following year, his first opera *Un Giorno di Regno* was a total fiasco. Added to this failure were family problems, the death of his wife and their two children. He even considered abandoning opera at this point.

After reaching the age of 40, Verdi gained fame around the world, and especially in Italy, the country of his birth, where the public adored him.

He composed 28 operas. There was *Nabucco* and *Aida*, the latter being commissioned for the festivities inaugurating the Suez Canal.

There was his trilogy of *Rigoletto*, *La Traviata* and *Il Trovatore*, marking the peak of a certain Romantic tradition. Magnificent!

Between 1861 and 1865, Verdi was active in politics, first as the representative of Busseto in the provincial parliament before going on to the national parliament. Later on, he became a senator. It is interesting to note that Verdi and Marconi, talented Italians from two very different worlds, met in the Italian senate.

While he was a senator, Verdi wrote *La Forza del Destino* and *Don Carlos*.

In 1899, he founded a retirement home for elderly musicians, which he described as his finest work.

Verdi was a famous volunteer. But who will establish a retirement home for senators?

On January 21, 1901, Verdi fell gravely ill. All of Italy waited for news with bated breath; the death of Queen Victoria on January 22 was barely noticed. Such was his popularity.

Verdi died on January 27, 1901. Over 200,000 people gathered for his funeral. Italy had lost a great hero.

[English]

Thursday, October 4, 2001

The Hon. the Speaker: Honourable senators, I should like to remind you that we have resolved in our rules and among ourselves to stick to the allotted 15 minutes for Senators' Statements and to three minutes per senator. I give notice that I will be more vigilant in the future on keeping time.

ROUTINE PROCEEDINGS

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SIXTH REPORT OF COMMITTEE PRESENTED

Hon. Jack Austin, Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented the following report:

Thursday, October 4, 2001

The Standing Committee on Rules, Procedures and the Rights of Parliament (formerly entitled the Standing Committee on Privileges, Standing Rules and Orders) has the honour to present its

SIXTH REPORT

Your Committee, which was authorized by the Senate on March 15, 2001, to examine the structure of committees in the Senate, respectfully requests that the date of presenting its findings to the Senate be extended from no later than Wednesday, October 31, 2001 to no later than Friday, February 15, 2002.

Respectfully submitted,

JACK AUSTIN, P.C.
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Austin, report placed on the Orders of the Day for consideration at next sitting of the Senate.

• (1350)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

EIGHTH REPORT OF COMMITTEE PRESENTED

Hon. Richard H. Kroft, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

EIGHTH REPORT

Your Committee recommends the adoption of Supplementary Estimates of \$2,646,000 for the fiscal year 2001-2002. Since the Senate had a carry-forward balance of \$621,000 from 2000-2001, the new funding requirements in the Supplementary Estimates are \$2,025,000.

This Supplementary Estimate is required to meet operational shortfalls in Committees as well as salary increases resulting from collective agreements and other human resource related items.

Your Committee wishes to underline the fact that these Estimates will include, on an information basis, the estimated costs that will be charged to the Statutory Appropriation related to the revised remuneration of Parliamentarians.

Respectfully submitted

RICHARD H. KROFT
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Kroft: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(g), I move that the report be placed on the Orders of the Day for consideration later this day.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

On motion of Senator Kroft, report placed on of the Orders of the Day for consideration later this day.

FOREIGN AFFAIRS

NOTICE OF MOTION TO REQUEST AUTHORITY TO MEET *IN CAMERA*

Hon. Peter A. Stollery: Honourable senators, I give notice that on Tuesday, October 16, 2001, I will move:

That, notwithstanding Rule 92(1), the Standing Senate Committee on Foreign Affairs will be empowered to hold occasional meetings *in camera* for the purpose of hearing witnesses and gathering specialized or sensitive information in relation to its order of reference of March 1, 2001, to examine such issues as may arise from time to time relating to foreign relations generally.

[Translation]

LA FÊTE NATIONALE DES ACADIENS ET ACADIENNES

DAY OF RECOGNITION—NOTICE OF MOTION

Hon. Rose-Marie Losier-Cool: Honourable senators, I give notice that at the next meeting of the Senate, I will move:

That the Senate of Canada recommend that the Government of Canada recognize the date of August 15th as Fête nationale des Acadiens et Acadiennes, given the Acadian people's economic, cultural and social contribution to Canada.

[English]

PERSONAL WATERCRAFT BILL

PETITIONS

Hon. Mira Spivak: Honourable senators, I have the pleasure to present 206 petitions bearing the signatures of 2,769 Canadians who are urging the Senate to pass Bill S-26, the Personal Watercraft Bill.

QUESTION PERIOD

FOUNDATION FOR SUSTAINABLE DEVELOPMENT TECHNOLOGY

AUDITOR GENERAL'S REPORT ON PUBLIC ACCOUNTS— COMMENTS ON PROCESS TO CREATE FUND

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate regarding the 2000-2001 Public Accounts that the Auditor General addressed last week. In her report, the Auditor General addressed the matter of the circumstances surrounding the setting up of the Canadian Foundation for Sustainable Development Technology and the creation of the fund.

The Auditor General raised some concerns regarding the creation of this fund in the fiscal year preceding the passage of the actual bill that established the foundation.

According to the Auditor General, the transfer of a large sum of public money, much larger than was necessary, to the foundation before Parliament had approved either the initiative or the funding was inappropriate.

The Auditor General clearly states that she could determine no compelling reason for the haste in which this occurred. The Auditor General concludes:

I certainly hope that in the rest of my tenure as Auditor General of Canada, I will not see another such series of events carried out to achieve a desired accounting result.

Given the Auditor General's criticism, what assurance can this government give that a similar series of events will not occur in the future?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, before I begin my answer, I want Senator Stratton to know it has been great fun to work with him over the last two weeks as Deputy Leader of the Opposition. Although we will welcome Senator Kinsella back, it is always nice to work with a fellow Manitoban.

As to his serious question with respect to the Auditor General's report, she clearly made her feelings on this matter very poignant and clear. The government has taken a contrary position. However, I would like to think that given the due consideration and serious questions asked by members on both sides of this chamber about the actions of the government the government will not in undue haste act that way again.

Senator Stratton: Honourable senators, I appreciate very much the compliment, and if Senator Robichaud is around, I would like to thank him and the Leader of the Government in the Senate. It was fun. It was also interesting and a heck of an education, but I will get back to normal life when we come back.

I thank the minister for her response, because it makes one feel uneasy when that kind of money is made available with no accountability. It does not even have to come back to the government if the corporation shuts down. That is another concern regarding this issue because Canadians should have that kind of accountability. I very much appreciate the reassurance those concerns will be carried forward, along with the concerns. I hope, about the accountability for any unused funds that do not have to be returned. To me, that is a big concern.

Senator Carstairs: Honourable senators, as the honourable senator knows, the legislation is now in place, and, as a result, clear accountability structures in place. However, I can also assure the honourable senator that the views of honourable senators from both sides, as expressed in this chamber, were made clear to my government colleagues.

• (1400)

ENVIRONMENT

REPORT OF COMMISSIONER OF THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT—INITIATIVES OF GOVERNMENT

Hon. Mira Spivak: Honourable senators, I should like to return to the audit of the Environment Commissioner. The Environment Commissioner has raised some serious questions about the federal government's role in protecting the Great Lakes basin and the health, well-being and prosperity of half of Canada's people.

First, the Commissioner of the Environment and Sustainable Development says that the government is losing the basic science capacity necessary to meet its commitments in areas where it was once active. For example, it does not know whether our drinking water meets its own national safety guidelines; its policy on bulk exports is incomplete; and Canada is not living up to its international commitments. Of 17 highly contaminated sites listed for cleanup in 1985, 16 remain on the list. There is also declining funding. Approximately \$125 million was promised to federal departments to deal with Great Lakes programs and only 12 per cent has been allocated in short-term, unconnected programs rather than being part of a consistent strategy. I raised the issue of agricultural waste yesterday.

In response to my question yesterday the minister said that we have to work with the provinces, but the environment commissioner has targeted some very key federal government responsibilities. It would be useful for us and for the Canadian public to have some light shed on these areas. I know that with budget cutting, et cetera, funds have been cut.

What is the response now that we have this huge, looming crisis? I would appreciate the leader's comments.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, we have these commissioners because we expect them to make the kind of frank statements the Commissioner of the Environment and Sustainable Development made this week. That is why Minister Anderson welcomed the report of the Commissioner of Sustainable Development and the Environment and why he considered it notable that, for the first time, the commissioner concentrated on one specific area, namely, the Great Lakes-St. Lawrence ecosystem, which involves, as honourable senators know, an extremely complex jurisdictional issue as we discussed partly yesterday.

The commitment to sustainable development and conservation is part of the government's coordinated ecosystems approach, and the implementation of the three phases of the St. Lawrence River action plan is an example of where the government is taking steps.

There is no question that the commissioner was critical of a number of things. She was also, as was the Auditor General, quite complimentary that we were, in fact, doing some of the right things. We need to have these very aggressive reports. They are positive because they keep the environment ministry active and seeking solutions.

Senator Spivak: Honourable senators, I thank the leader for her response.

There are three specific issues here. One is the science capacity. That has been addressed in other areas, for example, in medical research, but the science capacity is not there any more. I know this from Dr. David Schindler, and others, with regard to water issues. There is the \$125-million funding; the agricultural waste, which is a time bomb soon to go off; and the 17 contaminated sites. Those are specific questions. If the Leader of the Government in the Senate has the capacity to look

at those four specific areas and give us some indication of the government's intentions in response, it would be helpful.

Senator Carstairs: Honourable senators, I can give some of that information to my honourable colleague this afternoon. For example, restoring the Great Lakes-St. Lawrence ecosystem, while a shared environmental responsibility, has resulted in the following: Across the board, more than 60 per cent of the actions needed to restore the beneficial uses of the environment in the remaining 16 Canadian areas of concern has been taken. It is not 100 per cent, and that is clear. There is still 40 per cent to go. However 60 per cent is over half way to the target that we have set for ourselves.

Since 1988, there has been a 90 per cent reduction in liquid toxins from the 50 most polluting factories along the St. Lawrence and more than 130,000 hectares of natural habitat have been protected along the St. Lawrence. That has led to recovery plans for 22 priority species of plants and animals.

Under the Canada-Ontario Agreement, releases of persistent priority toxic substances, tier one, have been reduced by over 70 per cent. There are specific target goals and we are moving toward those target goals in the areas that the honourable senator has identified.

Could we move a little faster? I will encourage my colleague to do so.

THE SENATE

HILL PRECINCT PARKING

Hon. Willie Adams: Honourable senators, it is not often that I complain about anything that happens in the Senate. However, it will be cold soon, and there have been problems getting parking behind the Centre Block. I do not know what the rule is, but some senators have asked the Chairman of the Standing Committee on Internal Economy, Budgets and Administration about this situation. Some senators who have offices in the Victoria Building have two places to park their cars. The shuttle bus runs every five minutes between the Victoria Building and the Centre Block. Could the Chairman of the Internal Economy Committee tell us how the regulations work for the parking area around the Centre Block?

Hon. Richard H. Kroft: I thank the honourable senator for his question. This has been a concern for a number of senators over the past months as the projected work has developed. I am not in a position to give the honourable senator the exact details now. I assure honourable senators that after a long and difficult set of discussions over several months, starting early in the summer and finishing late in the summer, we have arrived at a solution that will be completely satisfactory and honourable senators need not be concerned about any problems regarding parking when the cold weather comes.

Senator Adams: Honourable senators, I have one other question. Some senators do not have a car here in Ottawa. I have heard that some of these senators have given their parking space to their assistants or to their secretaries. Is that true?

Senator Kroft: Honourable senators, I am not in a position to answer that question. I will look into it. [Translation]

AGRICULTURE AND AGRI-FOOD

PRAIRIE FARM REHABILITATION ADMINISTRATION REPORT ON DROUGHT IN PRAIRIE PROVINCES

Hon. Leonard J. Gustafson: Honourable senators, my question is addressed to the Leader of the Government in the Senate.

The Prairie Farm Rehabilitation Administration released a report today on the drought in Saskatchewan, Alberta and parts of Manitoba. We were informed that the rainfall this year was the least in our history, since records have been kept. We know the minister visited in mid-summer, before the crops were even mature. Since the crops are in and harvested, and we know the results of this devastating drought, is it the government's intention to have the minister or some of the ministers in the cabinet visit the drought areas on the Prairies to reassess the situation?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the honourable senator knows, the Minister of Agriculture has already been to the drought areas and has reported to his cabinet colleagues. I do not know of any further intention. I do know that this week the Canadian Farm Income Program interim applications for 2001 were made available. The government is urging those who will experience income shortfalls to apply sooner rather than later. I also know that an evaluation is ongoing, now that the crops are in, to assess the state of the crop lands, and the PFRA is part of that assessment.

• (1410)

Senator Gustafson: Honourable senators, it would seem to me to be important that the Minister of Agriculture revisit the situation. When he came out west in mid-summer, he indicated that he would wait and see but, at that point in time, the answer was mainly no. Now that the crops are in, would the Leader of the Government in the Senate take up with cabinet, the Prime Minister and the Minister of Agriculture the importance of understanding just how serious the situation is?

Senator Carstairs: Honourable senators, I will certainly take back the honourable senator's message. I also hope that we will have some figures from the applications for crop insurance very quickly. We will also have some better understanding of the uptake on the NISA, of which there is \$1.3 billion available. Those figures are not in yet, senator, but we hope that they will be in shortly.

ORDERS OF THE DAY

IMMIGRATION AND REFUGEE PROTECTION BILL

MOTION TO ALLOT TIME ADOPTED

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I wish to inform you that the discussions between the government and the representatives of the opposition party have led to an agreement on Bill C-11. Senators sitting as independents were also consulted.

Hon. Marcel Prud'homme: "Informed."

Senator Robichaud: I agree that the term "informed" is more appropriate.

Honourable senators, I move:

That, pursuant to rule 38, in relation to Bill C-11, An Act respecting Immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger, no later than 5:00 p.m. Wednesday, October 31, 2001, any proceedings before the Senate shall be interrupted and all questions necessary to dispose of third reading of the Bill shall be put forthwith without further debate or amendment, and that any votes on any of those questions be not further deferred; and

That, if a standing vote is requested, the bells to call in the Senators be sounded for thirty minutes, so that the vote takes place at 5:30 p.m.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

[English]

Senator Prud'homme: It is not debatable, but I disagree.

The Hon. the Speaker: It is not a debatable motion, honourable senators.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Senator Prud'homme: No.

The Hon. the Speaker: On division?

Senator Prud'homme: On division.

Motion agreed to, on division.

ROYAL ASSENT BILL

SECOND READING

Hon. Sharon Carstairs (Leader of the Government) moved second reading of Bill S-34, respecting Royal Assent to bills passed by the Houses of Parliament.

She said: Honourable senators, let me begin this afternoon by thanking my colleague Senator John Lynch-Staunton for his cooperation and his strong leadership on this matter.

I am pleased to rise today to speak to Bill S-34, respecting the deliberation of Royal Assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament.

[Translation]

I have the honour to advise this House that:

Her Excellency the Governor General has been informed of the purport of this bill and has given consent, to the degree to which it may affect the prerogatives of Her Majesty, to the consideration by Parliament of a Bill entitled "An Act respecting royal assent to bills passed by the Houses of Parliament."

[English]

Modernizing the procedure for declaring Royal Assent has long been a matter for discussion by honourable senators and members of the other House. In 1983, the Senate launched a discussion over alternatives to the procedure whereby the Governor General, in the Queen's name, signifies assents to bills passed by the Houses of Parliament. In 1985, the Standing Committee on Standing Rules and Orders of the Senate, as that committee was then known, issued its fourth report recommending a change in the Royal Assent procedure. Also in 1985, in the other House, the McGrath committee report on the chambers' standing orders recommended the simplification of Royal Assent.

In 1988, a government bill on modernizing Royal Assent was introduced in the Senate by Senator Murray, who was then the Leader of the Government in the Senate. In 1998, the Leader of the Opposition, Senator Lynch-Staunton, introduced a similar bill.

The bill was reviewed by the Standing Senate Committee on Legal and Constitutional Affairs, which made a number of amendments. The bill as reported from committee was reintroduced early this year by Senator Lynch-Staunton.

On Tuesday of this week, following the gracious act of Senator Lynch-Staunton, I introduced a bill in this chamber which mirrors his bill but for a few minor technical and editing changes. That is what I am pleased to speak to today.

As I have mentioned, the bill before us today is the result of detailed study and recommendations by honourable senators. This

bill concerns the process for implementing the final stage of our legislative process and so it is fitting that the leadership in support of this initiative has come from both government and opposition senators, although I must say that the balance is with the opposition senators.

I would commend all honourable senators for their attention and work on the issue of Royal Assent. Without their efforts, and without the leadership of Senator Lynch-Staunton and others such as Senator Murray and Senator Frith, the bill would not be before us in its present form.

Bill S-34 has two key elements: First, it preserves the Royal Assent ceremony as an important tradition by requiring its annual use in each session of Parliament, including the first appropriation bill of each session; second, it permits Royal Assent by written declaration.

The bill's provisions are procedural and simply relate to the form of signifying Royal Assent. The Governor General or her deputy will continue to exercise the royal prerogative of assent either in the Senate chamber, when Royal Assent is done by way of ceremony, or by written declaration reported to the Speakers of the two Houses of Parliament. Both procedures respect the convention that all three constituent elements of Parliament — the Crown, the Senate and the House of Commons — be included in the Royal Assent process.

Honourable senators, Canada is the only Commonwealth country that still uses the traditional, although somewhat time-consuming, Royal Assent ceremony on a regular basis and as the only procedure. The provisions of Bill S-34 are based on changes made by other jurisdictions which share our parliamentary heritage. The United Kingdom passed legislation in 1967 to allow Royal Assent by written declaration. In Australia, the Governor General's assent to bills is also usually made known by message to the President of the House of Representatives and the Speaker of the Senate.

Several Canadian provinces also use the written process. In Ontario, in 1973, through an all-party agreement, the legislature waived the formality of summoning the Lieutenant Governor to the chamber for Royal Assent. Except on special occasions, the Ontario Lieutenant Governor now gives Royal Assent in her suite at Queen's Park. Quebec also uses the written procedure which occurs in the offices of the Lieutenant Governor.

The fact that other Commonwealth countries and a number of provinces allow Royal Assent to be done by way of written declaration demonstrates that Bill S-34 is entirely procedural and does not alter the constitutional requirement for Royal Assent or affect the office and prerogatives of the Governor General.

Section 55 of the Constitution Act, 1867, requires that where a bill passed by the Houses of Parliament is presented to the Governor General for the Queen's assent, the Governor General shall declare, according to his or her discretion, whether he or she assents to the bill. On the issue of the royal prerogative, to quote from the debates in the United Kingdom Parliament:

• (1420)

The Lord Chancellor, Lord Gardiner, stated in the House of Lords in 1967 regarding UK legislation to permit Royal Assent by written procedure that:

The Bill ... leaves the prerogative exactly as it is; it leaves the Royal Assent in person exactly as it is ... All it does is to provide a ... simpler method, not strictly of giving the Royal Assent, but of declaring it to both Houses.

In the House of Commons at Westminster in 1967, Mr. Anthony Buck stated that, and I quote.

I understand that the Bill does not limit the Royal Prerogative; in fact, so far as it does anything it extends it somewhat, by providing an additional way in which it may be signified to the House

Honourable senators, I began my remarks by declaring that the Governor General has given her consent to the consideration of this bill. To quote again from Lord Gardiner's statement during the 1967 consideration of their Royal Assent bill:

We do not ordinarily legislate in a matter which does, or even may, affect the prerogative without first asking Her Majesty.

I have already indicated that the government shares Lord Gardiner's view that permitting Royal Assent by written procedure does not affect the royal prerogative in any way.

As Dicey's classic work *The Law of the Constitution* states, it is a longstanding parliamentary practice, politeness and civility to obtain royal consent in advance to any bill which might affect the royal prerogative or interest, whether the bill is in relation to the prerogative or not. In keeping with this practice, the government sought, obtained and has declared in this chamber royal consent to proceed with Bill S-34.

Like the United Kingdom legislation authorizing Royal Assent by written declaration, Bill S-34 does not specify procedural details. Given the significance of this stage of the legislative process, I have asked my officials to work with the Office of the Governor General, the Table and the staff of the House of Commons on a process for handling written procedure that would respect the roles of those involved.

Honourable senators, let me conclude my summarizing the reasons why this bill should be supported. First, it is a balanced and non-partisan bill that draws on the work and support of both sides of this chamber. Again, I particularly thank Senator Lynch-Staunton for his efforts which have led to the introduction of this bill.

Second, Royal Assent by written declaration will remove a frequent interruption in the business of parliamentarians while preserving the Royal Assent ceremony as a special, ongoing tradition of Parliament.

Third, the bill addresses the challenges we will face when the Houses of Parliament meet in different buildings for at least eight years during renovations to the Centre Block. Arrangements for the traditional ceremony will be more difficult and time-consuming, especially in inclement weather. Senator Lynch-Staunton has said that this alone is reason enough to give serious consideration to a bill on modernizing the Royal Assent procedure.

Fourth, written declaration will reduce the burden that the ceremony places on the Governor General and the Supreme Court justices who act as her deputy.

Fifth, the bill is consistent with our broader work to modernize and streamline parliamentary procedure and to make our rules and procedures serve the needs of honourable senators and all Canadians.

Sixth, the bill is based on the practice of other Commonwealth countries and provinces that use this process.

Seventh, the passage by the Senate of this bill will demonstrate our ability to work together for the good of all parliamentarians in both this chamber and in the other place.

After two decades of study and debate, I believe it is time for us to move forward with the legislation. My cabinet colleague, the Leader of the Government in the House of Commons, is prepared to seek to advance this bill in the other House following the consideration of the Senate, but I specifically asked that this bill be introduced in this chamber because it most affects us, our work and our planning.

Honourable senators, I invite you to support the timely passage of this bill so that it can be sent to the other House and we can have an end to the debate on this matter.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, my comments are word for word those of a highly respected member of the judiciary, whose opinions are renowned as much for their brevity as for their content. More often than not, when asked to join in an opinion submitted by a colleague, he writes, "I concur."

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Carstairs, bill referred to the Standing Committee on Rules, Procedures and the Rights of Parliament.

[Translation]

THE SENATE

COMMITTEE OF THE WHOLE—REPLACEMENT OF
SEA KING HELICOPTERS—APPEARANCE OF OFFICIALS
ON PROCUREMENT PROCESS—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Robichaud, P.C., seconded by the Honourable Senator Finestone, P.C.,

That at 3:00 p.m. on Thursday October 4, the Senate resolve itself into a Committee of the Whole in order to receive officials from the Department of National Defence and the Department of Public Works and Government Services for a briefing on the procurement process for maritime helicopters.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I think it would be appropriate to inform the Senate that the members on both sides of this chamber are still holding discussions regarding a date for the committee of the whole to debate the purchase of maritime helicopters. The date initially proposed was today, October 4, 2001, but of course that is not going to happen. Once a date is set, I will let all honourable senators know so that they may prepare themselves accordingly.

On motion of Senator Robichaud, debate adjourned.

[English]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

EIGHTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report of the Standing Committee on Internal Economy, Budgets and Administration, presented earlier this day.

Hon. Richard H. Kroft moved the adoption of the report.

He said: Honourable senators, I should like to take just a few minutes to explain the content of this report. The report is based on the recommendations of the Subcommittee on Finance and Budgets of the Standing Committee on Internal Economy, Budgets and Administration, which is composed of Senators Furey, Doody and Stollery.

The subcommittee met on September 19 to review the proposal for Supplementary Estimates. Internal Economy reviewed the recommendations of the subcommittee on September 25 and October 4. The items proposed for inclusion in these Supplementary Estimates are comprised of salaries, other human resource-related matters and funds for committees. The proposed Supplementary Estimate, amounting to some \$2.6 million for voted items, represents an increase of

4.7 per cent to the Main Estimates for 2001-02, which total \$56.5 million. Taking into consideration the carry forward, the net additional operating funds become \$2,025,000, or an increase of 3.6 per cent.

I underline that Supplementary Estimates must include for information purposes the estimated expenditures for statutory appropriations. This means that the revisions to the remuneration of parliamentarians will be disclosed and show an increase to statutory expenditures of some \$1.8 million. The statutory expenditures relating to the revised remuneration represent a 3.2 per cent increase to the 2001-02 Main Estimates.

In summary, our Supplementary Estimates represent a 7.9 per cent increase to our Main Estimates.

• (1430)

I should point out that both the House and the Library of Parliament will be going forward for Supplementary Estimates. Most departments requiring additional funds seek authority in the first Supplementary Estimates of the year. It is important to go for the first Supplementary Estimates, which are scheduled to be tabled on November 1, in order to allow the Senate to move forward on a number of issues, including training and the work of our committees.

Finally, I would point out that in order to meet the printing deadline, the recommendations of this committee will need to be approved by the Senate today, given that we will not be sitting the week of October 8 to 12.

Honourable senators, I urge you to support the adoption of this report.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

STATUS OF LEGAL AID PROGRAM

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Callbeck calling the attention of the Senate to the status of legal aid in Canada and the difficulties experienced by many low-income Canadians in acquiring adequate legal assistance, for both criminal and civil matters.—(Honourable Senator Hubley).

Hon. Elizabeth Hubley: Honourable senators, I am pleased to rise today to continue my remarks in support of Senator Callbeck's inquiry into the status of legal aid in Canada. Again, I commend Senator Callbeck for bringing this important issue before us and for pointing out the inequities and flaws in our present system.

Indeed, as my colleague has demonstrated, legal aid in Canada is really not a national system at all, but rather a disparate collection of programs and services that vary greatly from one province to another. This inconsistency is the result of different rules respecting access, as well as the federal and provincial funding that is accorded legal aid in each jurisdiction. The federal government has allowed funding for criminal legal aid to wither away, while federal assistance to the provinces for civil legal aid services is no longer dedicated but is part of the general Canada Health and Social Transfer.

The result, honourable senators, for small provinces like Prince Edward Island, is that legal aid services are chronically underfunded and do not meet the needs of low-income Canadians especially. In other words, the people legal aid is supposed to help are often denied access to services, which I firmly believe should be available to every citizen as a basic right. Every Canadian, regardless of their social status or economic power, should have the right to be represented in a court of law. They should have a right to a fair trial. They should have a right to seek and obtain justice. What could be more fundamental to our system of democracy? It is one thing to perceive a right, or assume it exists in our society, and quite another to have it guaranteed by law.

The equality rights section of our Charter of Rights and Freedoms states that everyone is equal before and under the law, and everyone has the right to equal protection and equal benefit of the law without discrimination. Moreover, section 7 and section 11(d) seemingly give everyone the right to be presumed innocent and the right not to be deprived of life, liberty and security, except as the result of a fair trial. In addition, the International Covenant on Civil and Political Rights, of which Canada is a signatory, states unequivocally that someone accused of a criminal act has the right to legal assistance without payment.

This international covenant, however noble, is not enforceable in Canada. The meaning and implications of our Charter of Rights in the area of legal aid have been unclear. Do low-income and disadvantaged Canadians have the right to government-funded legal representation in criminal trials? Provincial appeal courts that have examined the question seem to think the Charter indirectly guarantees such a right, and yet the Supreme Court of Canada has been slow to take a position. Happily, the legal tea leaves are beginning to take shape.

In 1999, the Supreme Court of Canada ruled in favour of an impoverished New Brunswick mother who had been denied government legal aid to fight the apprehension of her children. That ruling has had repercussions right across the country. It is now unlikely that civil legal aid will ever be refused again in such child protection disputes.

Honourable senators, there is no joy in poverty. In every province and region, low-income Canadians have a daily struggle to survive and to take care of themselves and their families. They are single-parent mothers, children, people with disabilities, new immigrants, Aboriginal people, the unemployed, those on social assistance, and the large group of Canadians we have come to describe as the working poor. Most of these people depend

heavily upon the law and on government bureaucracy and regulation for the necessities of life. As such, they are often not only poor but also powerless.

We expect a great deal of our poor and disadvantaged. We expect them to constantly look for work when collecting employment insurance benefits, even though employment opportunities often do not exist. As social assistance recipients, we expect people to abide by countless rules and regulations, and frequently we enter into their private family life as uninvited helpers taking away their personal freedom and independence.

Honourable senators, I do not believe we should ever expect the poor and the disadvantaged to represent or defend themselves in court, or to be denied access to justice under the law. Yet, because of tighter eligibility rules and reduced funding to legal aid throughout Canada, that very thing happens with regularity. The results are often disastrous for both the individual and the justice system itself.

Honourable senators, our criminal justice system is adversarial by nature. The government spends vast amounts of money to send those accused of crimes to trial. For many years my husband was a Crown prosecutor, and I know that without legal representation the scales of justice are unavoidably tilted in favour of the Crown or the state, and most attempts at self-representation are doomed to failure.

The National Council of Welfare, in its 1995 report entitled "Legal Aid and the Poor," described the predicament this way:

The most minor criminal cases can be very complex, and the police and court environments are so intimidating to non-initiated people that even intelligent, well-informed suspects who face criminal charges without the help of a lawyer can be found guilty of something they did not do. In most criminal prosecutions, the accused are poor, they have limited schooling, and little or no idea of what is going on.

While the availability of criminal legal aid is essential, it is a fact that most low-income Canadians have never been in trouble with the law and, thankfully, will never need these services. Many of our poor and disadvantaged will require civil law services, however, to resolve tenant-landlord disputes, consumer frauds, financial problems and a variety of other matters. The majority of civil legal aid applicants will be women seeking to resolve family law issues. Indeed, perhaps the greatest failure of legal aid today is its inability to address the needs of families caught up in a child custody or child maintenance dispute.

• (1440)

In my own province, honourable senators, women desiring to have child support orders changed are frequently obliged to go into the courtroom without professional legal help. As former Prince Edward Island Chief Justice Norman Carruthers has expressed, the court does its best to accommodate this self-representation, but in his words, the civil legal aid system is a "mess," and the women in difficult financial and family circumstances are not being afforded the assistance they require.

Senator Callbeck has outlined the financial inadequacies of the existing civil legal aid programs as well as their inconsistencies from one province to another. Therefore, I will not comment at length on these issues. However, I will restate the obvious, that the federal government's financial commitment to legal aid programs and services has diminished over the past decade.

Unfortunately, the mode of funding has changed, too. These essential services must now compete with a myriad of other provincial spending priorities in health and education. This is most regrettable.

Honourable senators, today I am calling on both the federal and provincial governments to renew their commitment to legal aid for Canadians. I realize that the Honourable Anne McLellan has announced her intention to study broader civil legal aid issues, including the needs of disadvantaged Canadians for legal aid assistance in both criminal and civil matters. At present, a joint federal provincial study is underway in that regard. It is my sincere hope that as a result of this review funding will be strengthened and the scope of legal aid broadened.

Honourable senators, many of us are understandably concerned with the prospects of a two-tier health care system in Canada: one system for the rich and one for the poor. We are doing our best to protect the universality of medicare. However, I fear we are in danger of creating another two-tier system in our country, one that, in my view, would cast a dark shadow upon our basic democratic and constitutional rights. We do not need a two-tiered justice system in Canada, one that discriminates against those without economic power. Our national mission is greater than that. Our ideals are loftier. Our Charter of Rights and Freedoms demands more from our governments.

In concluding my remarks, I should like once again to commend Senator Callbeck for introducing this important matter. I encourage other senators to participate in the discussion.

On motion of Senator Robichaud, for Senator Chalifoux, debate adjourned.

UNITED STATES NATIONAL MISSILE DEFENCE SYSTEM

MOTION RECOMMENDING THAT THE GOVERNMENT
NOT SUPPORT DEVELOPMENT—MOTION IN AMENDMENT—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Roche, seconded by the Honourable Senator Finestone, P.C.:

That the Senate of Canada recommends that the Government of Canada avoid involvement and support for

the development of a National Missile Defence (NMD) system that would run counter to the legal obligations enshrined in the Anti-Ballistic Missile Treaty, which has been a cornerstone of strategic stability and an important foundation for international efforts on nuclear disarmament and non-proliferation for almost thirty years,

And on the motion in amendment of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Bacon, that the subject-matter of this motion be referred to the Standing Senate Committee on Defence and Security for study and report back to the Senate.—(*Honourable Senator Forrestall*).

Hon. Lois M. Wilson: Honourable senators, I am not prepared to speak to this item today. However, I should like the Senate to extend the debate because it is important, particularly in view of the events of September 11.

On motion of Senator Wilson, debate adjourned.

DEFENCE AND SECURITY

COMMITTEE AUTHORIZED TO STUDY HEALTH CARE SERVICES
AVAILABLE TO VETERANS AND TO APPLY DOCUMENTATION
FROM PREVIOUS SESSION TO STUDY

Hon. Jack Wiebe, for Senator Meighen, pursuant to notice of October 3, 2001, moved:

That the Standing Senate Committee on Defence and Security be authorized to examine and report on the health care provided to veterans of war and of peacekeeping missions; the implementation of the recommendations made in its previous reports on such matters; and the terms of service, post-discharge benefits and health care of members of the regular and reserve forces as well as members of the RCMP and of civilians who have served in close support of uniformed peacekeepers;

That the papers and evidence received and taken on the subject during the Second Session of the Thirty-sixth Parliament be referred to the Committee;

That the Committee report no later than June 30, 2002; and

That the Committee be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

Motion agreed to.

[Translation]

ADJOURNMENT

Leave having been given to revert to Notices of Government Motions:

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, October 16, 2001, at 2:00 p.m.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, October 16, 2001, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
 (1st Session, 37th Parliament)
 Thursday, October 4, 2001

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act respecting marine liability, and to validate certain by-laws and regulations	01/01/31	01/01/31	—	—	—	01/01/31	01/05/10	6/01
S-3	An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts	01/01/31	01/02/07	Transport and Communications	01/05/03 amended 01/05/09	3	01/05/10	01/06/14	13/01
S-4	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	01/01/31	01/02/07	Legal and Constitutional Affairs	01/03/29	0 + 1 at 3rd	01/04/26	01/05/10	4/01
S-5	An Act to amend the Blue Water Bridge Authority Act	01/01/31	01/02/07	Transport and Communications	01/03/01	0	01/03/12	01/05/10	3/01
S-11	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	01/02/06	01/02/21	Banking, Trade and Commerce	01/04/05	17 + 1 at 3rd	01/05/02 Senate agreed to Commons amendments 01/06/12	01/06/14	14/01
S-16	An Act to amend the Proceeds of Crime (Money Laundering) Act	01/02/20	01/03/01	Banking, Trade and Commerce	01/03/22	0	01/04/04	01/06/14	12/01
S-17	An Act to amend the Patent Act	01/02/20	01/03/12	Banking, Trade and Commerce	01/04/05	0	01/05/01	01/06/14	10/01
S-23	An Act to amend the Customs Act and to make related amendments to other Acts	01/03/22	01/05/03	National Finance	01/05/17	11 + 2 at 3rd (01/06/06)	01/06/07		
S-24	An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence	01/03/27	01/04/05	Aboriginal Peoples	01/05/10	0	01/05/15	01/06/14	8/01
S-31	An Act to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	01/09/19							

S-33	An Act to amend the Carriage by Air Act	01/09/25		
S-34	An Act respecting royal assent to bills passed by the Houses of Parliament	01/10/02	01/10/04	Rules, Procedures and the Rights of Parliament

**GOVERNMENT BILLS
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Employment Insurance Act and the Employment Insurance (Fishing) Regulations	01/04/05	01/04/24	Social Affairs, Science and Technology	01/05/03	0	01/05/09	01/05/10	5/01
C-3	An Act to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act	01/05/02	01/05/10	Energy, the Environment and Natural Resources	01/06/06	0	01/06/12	01/06/14	18/01
C-4	An Act to establish a foundation to fund sustainable development technology	01/04/24	01/05/02	Energy, the Environment and Natural Resources	01/06/06	0	01/06/14	01/06/14	23/01
C-6	An Act to amend the International Boundary Waters Treaty Act	01/10/03							
C-7	An Act in respect of criminal justice for young persons and to amend and repeal other Acts	01/05/30	01/09/25	Legal and Constitutional Affairs					
C-8	An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions	01/04/03	01/04/25	Banking, Trade and Commerce	01/05/31	0	01/06/06	01/06/14	9/01
C-9	An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act	01/05/02	01/05/09	Legal and Constitutional Affairs	01/06/07	0	01/06/13	01/06/14	21/01
C-11	An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger	01/06/14	01/09/27	Social Affairs, Science and Technology					
C-12	An Act to amend the Judges Act and to amend another Act in consequence	01/04/24	01/05/09	Legal and Constitutional Affairs	01/05/17	0	01/05/29	01/06/14	7/01
C-13	An Act to amend the Excise Tax Act	01/04/24	01/05/01	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	15/01
C-14	An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts	01/05/15	01/05/30	Transport and Communications					
C-17	An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act	01/05/15	01/05/30	National Finance	01/06/07	0	01/06/11	01/06/14	11/01
C-18	An Act to amend the Federal-Provincial Fiscal Arrangements Act	01/05/09	01/05/31	National Finance	01/06/12	0	01/06/12	01/06/14	19/01
C-20	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	1/01
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	2/01

C-22	An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act	01/05/15	01/05/30	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	17/01
C-24	An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts	01/06/14	01/09/26	Legal and Constitutional Affairs					
C-25	An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts	01/06/12	01/06/12	Agriculture and Forestry	01/06/13	0	01/06/14	01/06/14	22/01
C-26	An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco	01/05/15	01/05/17	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	16/01
C-28	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	01/06/11	01/06/12	—	—	—	01/06/13	01/06/14	20/01
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/06/13	01/06/14	—	—	—	01/06/14	01/06/14	24/01

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
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SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5			
S-7	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	01/01/31	01/02/07	Transport and Communications	01/06/05	0	01/06/07		
S-8	An Act to maintain the principles relating to the role of the Senate as established by the Constitution of Canada (Sen. Joyal, P.C.)	01/01/31	01/05/09	Rules, Procedures and the Rights of Parliament					
S-9	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	01/01/31							
S-10	An Act to amend the Parliament of Canada Act (Parliamentary Post Laureate) (Sen. Gratstein)	01/01/31	01/02/08	—	—	—	01/02/08		
S-12	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	01/02/07	01/03/27	Social Affairs, Science and Technology					

S-13	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	01/02/07	01/05/02	Rules, Procedures and the Rights of Parliament (Committee discharged from consideration—Bill withdrawn 01/10/02)			
S-14	An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	01/02/07	01/02/20	Social Affairs, Science and Technology	0	01/05/01	
S-15	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	01/02/07	01/03/01	Energy, the Environment and Natural Resources	0	01/05/15	Bill withdrawn pursuant to Commons Speaker's Ruling 01/06/12
S-18	An Act to Amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	01/02/20	01/04/24	Social Affairs, Science and Technology (withdrawn) 01/05/10 Energy, the Environment and Natural Resources			
S-19	An Act to amend the Canada Transportation Act (Sen. Kirby)	01/02/21	01/05/17	Transport and Communications			
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	01/03/12					
S-21	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	01/03/13		Subject-matter 01/04/26 Social Affairs, Science and Technology			
S-22	An Act to provide for the recognition of the Canadian Horse as the national horse of Canada (Sen. Murray, P.C.)	01/03/21	01/06/11	Agriculture and Forestry			
S-26	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	01/05/02	01/06/05	Transport and Communications			
S-29	An Act to amend the Broadcasting Act (review of decisions) (Sen. Gauthier)	01/06/11					
S-30	An Act to amend the Canada Corporations Act (corporations sole) (Sen. Atkins)	01/06/12					
S-32	An Act to amend the Official Languages Act (fostering of English and French) (Sen. Gauthier)	01/09/19					

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (Sen. Krotf)	01/03/29	01/04/04	Legal and Constitutional Affairs	01/04/26	1	01/05/02	01/06/14	
S-27	An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	
S-28	An Act to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	

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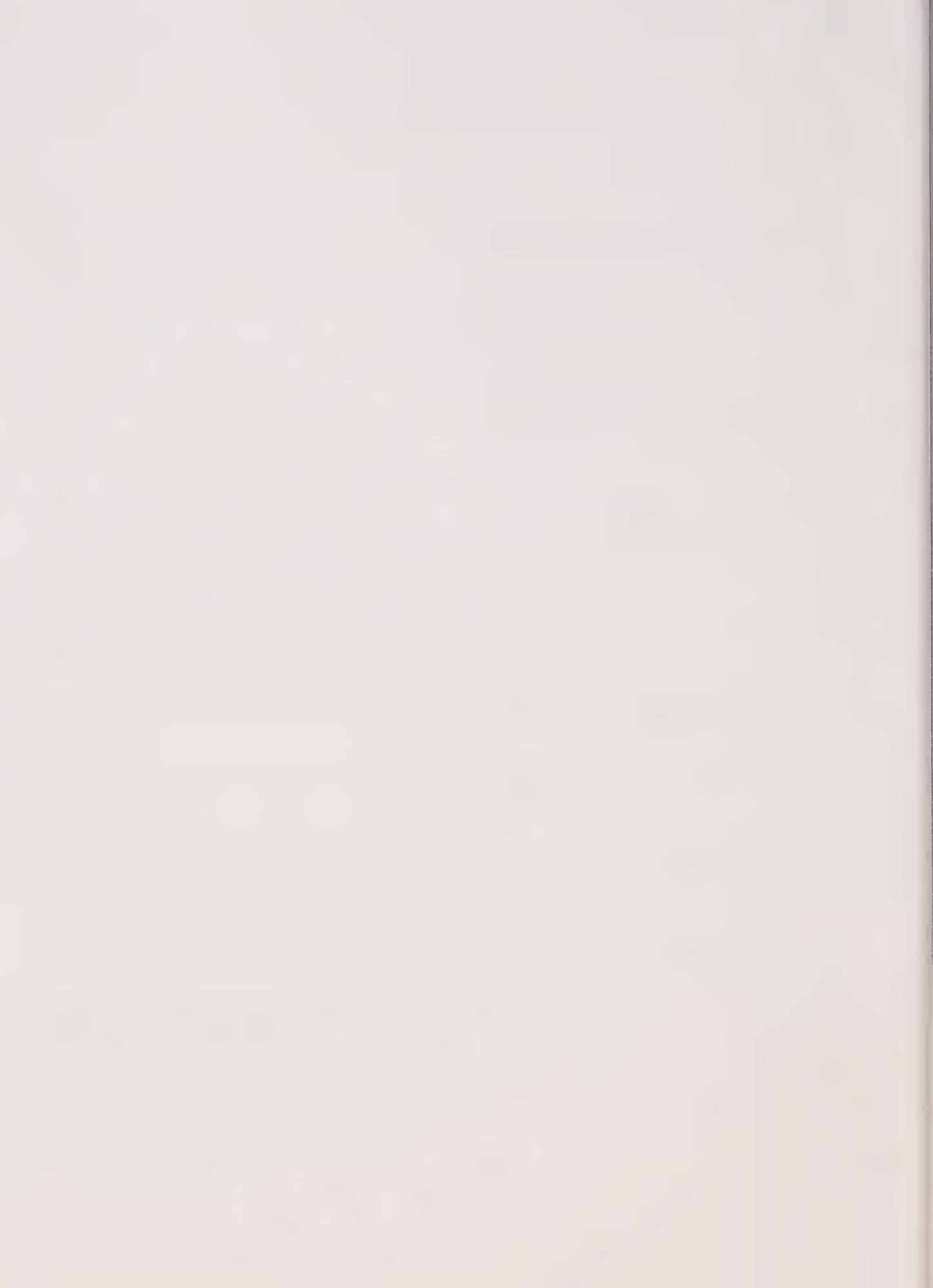
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OFFICIAL REPORT
(HANSARD)

Tuesday, October 16, 2001

—

THE HONOURABLE ROSE-MARIE LOSIER-COOL,
SPEAKER *PRO TEMPORE*



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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Tuesday, October 16, 2001

The Senate met at 2:00 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

NEW SENATORS

The Hon. the Speaker *pro tempore*: Honourable senators, I have the honour to inform the Senate that the Clerk has received certificates from the Registrar General of Canada showing that the following persons, respectively, have been summoned to the Senate:

Gerard A. Phalen
Joseph A. Day
Michel Biron

INTRODUCTION

The Hon. the Speaker *pro tempore* having informed the Senate that there were senators without, waiting to be introduced:

The following honourable senators were introduced; presented Her Majesty's writs of summons; took the oath prescribed by law, which was administered by the Clerk; and were seated:

Hon. Gerard A. Phalen, of Glace Bay, Nova Scotia, introduced between Hon. Sharon Carstairs and Hon. Landon Pearson.

Hon. Joseph A. Day, of Hampton, New Brunswick, introduced between Hon. Sharon Carstairs and Hon. Eymard G. Corbin.

Hon. Michel Biron, of Nicolet, Quebec, introduced between Hon. Sharon Carstairs and Hon. Céline Hervieux-Payette.

The Hon. the Speaker *pro tempore* informed the Senate that each of the honourable senators named above had made and subscribed the declaration of qualification required by the Constitution Act, 1867, in the presence of the Clerk of the Senate, the Commissioner appointed to receive and witness the said declaration.

• (1420)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am pleased to rise today and welcome three new colleagues to the Senate chamber.

Senator Gerard — better known as Jigger — Phalen taught at the Nova Scotia Eastern Institute of Technology, where he was also Chair of the Faculty Association and Chair of the Negotiating Committee. At the University College of Cape Breton, he again chaired the Negotiating Committee and served on other committees, in addition to serving as a member of the teaching faculty.

Senator Phalen has served in many positions for several unions, including President of the Nova Scotia Government Employees Union and Vice-President of the Council of Atlantic Provincial Employees.

Senator Phalen has a long-standing interest in politics and has served as a political organizer and fundraiser in Cape Breton.

Honourable senators, if you ask Senator Phalen to open up his jacket, you will see a little piece of Cape Breton tartan that has been put there in honour of today.

Hon. Senators: Hear, hear!

Senator Carstairs: Honourable senators, Senator Day is both an engineer and a lawyer, specializing in patent and trademark law and corporate legal counsel. Senator Day is certified as a specialist in intellectual property matters by the Law Society of Upper Canada, as well as certified as a professional engineer in the province of New Brunswick.

Senator Day studied at the Royal Military College and obtained a Master of Laws from Osgoode Hall. He has been called to the bar of New Brunswick, Ontario and Quebec.

Senator Day has served as legal counsel for J.D. Irving Limited. Following his tenure there, he became President and CEO of the New Brunswick Forest Products Association.

Senator Day has been very active in many legal associations, including the Canadian Bar Association and the Canadian Corporate Counsel Association. He has volunteered for many professional and community associations, including serving as Chair of the Tattoo 200 Saint John Bicentennial Celebration, the Foundation and Board of the Dr. V.A. Snow Centre Nursing Home, and the 1996 Saint John Regional Hospital "Rally of Hope."

[Translation]

Senator Michel Biron is President of Sogetel Mobilité, Sogetel Interurbain, NTIC and Mont Orignal. He launched modern telephony and new telecommunications technologies when he became President of Sogetel, nearly 40 years ago now.

His commitment to independent business and his dedication to organizations such as the Canadian Independent Telephone Association earned him the association's Man of the Year award in 1981.

In addition to being a dynamic entrepreneur, Senator Biron is very active in the community. He was one of the founding members of the Caisse d'entraide économique de Nicolet and a director of the Nicolet Chamber of Commerce.

[English]

He has been very involved in promoting entrepreneurial, artistic, sports and cultural endeavours in the region of Nicolet.

This spring, Senator Biron was appointed Member of the Order of Canada.

Honourable senators, I look forward to becoming further acquainted with our new colleagues and to working with them in the Senate chamber.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, in joining with Senator Carstairs in welcoming our new colleagues, this is as good an occasion as any to emphasize again that the Senate of Canada, despite what many in their ignorance enjoy demeaning, is able to survive attacks on its credibility by constantly carrying out its constitutional obligations in a responsible and, I dare say, enviable fashion: enviable in the sense that it succeeds where the other place too often fails. It sees legislation as a legitimate effort to improve society, not as a series of words either accepted blindly or challenged solely for some partisan advantage.

• (1430)

This place — this appointed place, this appointed chamber — more often than not shows more care for the rule of law and parliamentary democracy than does the elected one. It is in this environment that I welcome, on behalf of all my colleagues, our three new members. The background of each, despite some questionable political leanings, I must admit, augurs well not only for the enhancement of the role of the Senate but for the entire parliamentary process.

[Translation]

I should like to congratulate the three new senators on their appointment and assure them they have my complete support, and the support of my colleagues on this side, as they familiarize themselves with their new responsibilities.

[English]

SENATOR'S STATEMENTS

YWCA CANADA WEEK WITHOUT VIOLENCE

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I rise today to draw your attention to the fact that the YWCA of Canada has established this week, from October 14 to October 20, as their Week Without Violence campaign. In light of recent world events, this is an ideal week in which to pause and consider the effects of violence on our society. Violence often prevails whenever people do not treat each other with basic human dignity: Governments fail to respect and safeguard their citizens, citizens fail their neighbours and parents fail their children. This Week Without Violence is an ideal time in which to reflect on the importance of treating each other with dignity and with respect.

In Canada, we are fortunate that we place such a high premium on human rights and civil liberties. Our governments and our courts enact laws that protect us from living in fear of violence. However, we all know that they cannot protect us from each other and every act of violence. When we need immediate assistance, we often turn to organizations such as the YWCA.

Honourable senators, as many of you are aware, the YWCA is our oldest and largest service organization. There are 42 YM/YWCAs across Canada that address the needs of more than one million women and children each year. It has always been a reassuring presence for Canadian women who have turned to the organization for support and assistance in many areas of their lives.

YWCA chapters across the country offer a remarkable variety of employment, daycare and outreach programs. Perhaps the most valuable service is their assistance to women and children who suffer the effects of violence in their families.

Women across Canada are helped by the YWCA. In Kamloops, 603 women and children found shelter last year. In Sudbury, Geneva House has been opening its doors to women escaping domestic violence since 1983. In Oshawa, the Apple Community Project provides 24-hour assistance to women seeking refuge and assistance. In our National Capital Region, the YM/YWCA provides a counselling program especially for preschoolers who have been exposed to violence or abuse. In my home province of Manitoba, the Winnipeg YM/YWCA is launching a program at high schools called Acting Peace, which is aimed at youth violence prevention. Since 1998, the Thompson YWCA has been sponsoring Season Without Violence, a series of activities encouraging awareness of the tragic consequences of violence. This program addresses many forms of violence, including sexual assault, suicide prevention and assertiveness training for victims of violence.

Honourable senators, I take this opportunity to congratulate the YWCA of Canada on their sixth anniversary of the Week Without Violence campaign.

INTERNATIONAL CONFERENCE OF UNIVERSITIES

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, a few days ago I had the opportunity to participate in the International Conference of Universities named after Saint Thomas Aquinas. The meeting took place in Rome, and was hosted by my alma mater, the Pontifical University of St. Thomas Aquinas — the "Angelicum."

The Canadian delegation was led by Dr. Daniel O'Brien, President of Saint Thomas University in Fredericton, New Brunswick. Our group was privileged by an audience with Pope John Paul II, who encouraged this university work around the globe. His Holiness also shared with us some of his experiences during his visit to Armenia and Kazakhstan. I wish to place on the record of this honourable house, the Pope's words when he told us, "Religion can never be used as a justification for terrorism or war."

I am confident that all Canadians, as all honourable senators concur in this truth.

UNITED NATIONS AND SECRETARY-GENERAL KOFI ANNAN

RECIPIENTS OF NOBEL PEACE PRIZE

Hon. Douglas Roche: Honourable senators, the news that the Nobel Peace Prize has been awarded to Secretary-General Kofi Annan and the whole United Nations provides a moment of hope in a fractured world.

In lifting Kofi Annan to the pre-eminent status occupied by Nobel Peace Laureates, the Nobel Committee has sent a signal to the world: The route to peace with security lies in the strategies promoted by the UN to deal with the key areas of conflict, sustainable development, equity and justice.

Though wars are still fought, the UN has averted even more wars. Though poverty still scars the world, the UN has raised the living standards of millions. Though human rights are still egregiously violated, the UN has provided new norms for the protection of human dignity that are slowly being built into laws.

Honourable senators, put simply, the world is a better place because of the United Nations. Compared to the \$800 billion per year that the world spends on armaments, the \$10 billion spent by the UN on all its agencies is far more effective for peace.

Kofi Annan, in his quiet, unassuming manner, has accomplished much and is held in the highest regard by the UN's 189-member countries, as was revealed in their unanimous reappointment of him as Secretary-General for a second five-year term. The major nations ought now to listen to him more carefully when he calls for a political settlement to the conflict in Afghanistan.

Honourable senators, it is good that the whole United Nations team is singled out to share the Nobel Peace Prize. The UN vineyard is full of dedicated, competent and tireless servants of peace. Permit me to name just one: Jayantha Dhanapala, Under-Secretary-General for Disarmament Affairs, who is engaged on a daily basis in developing the measures to move the world from weapons to law in building the conditions for peace.

The whole world should be grateful, honourable senators, as it salutes Secretary-General Kofi Annan and the United Nations.

PRINCE EDWARD ISLAND

ADVANCES IN TECHNOLOGY

Hon. Catherine S. Callbeck: Honourable senators, when Canadians think of Prince Edward Island, they generally envision rolling potato fields, sandy beaches, lobster boats or, yes, Anne of Green Gables. There is little question that these are the images for which we are best known.

However, what you may not realize is that my home province is leading the way in Canada in respect of its citizens having access to technology. Advances in technology and the World Wide Web have changed the way in which we operate on a daily basis. We have quick and easy access to information, which, just a few short years ago, may have taken considerable time and effort to find. The knowledge-based economy is dependent upon this sort of

technology and to that end, it appears that the people of Prince Edward Island are well placed to take advantage of this new and blossoming sector of our nation's economic activity. A recent Statistics Canada survey showed that Prince Edward Island has recorded the largest single increase in the country in home Internet access, boasting an increase of 71 per cent from the previous year. This, combined with the fact that Prince Edward Island was the first Canadian province to connect every school and library to the Internet, certainly puts the province in an enviable position.

However, honourable senators, this is just the tip of the technological iceberg. Currently under construction in downtown Charlottetown is the multi-million dollar, state-of-the-art Atlantic Technology Centre. When this facility opens its doors next year, it will serve as an incubator for further business development in the area of technology.

It is expected to house more than 500 employees, who will work with small and medium-sized technology businesses based in the province, as well as more well-known international firms. The opening of this \$20-million centre will coincide with the province's hosting of a major international technology conference — Softworld 2002.

Honourable senators, this event will attract information technology experts from around the world, and I believe it speaks volumes for how advanced the technology sector has become in Prince Edward Island.

Honourable senators, it is my fondest personal wish that this continued development in technology will make it possible for young Islanders, with a desire to stay at home to pursue their dreams, to do just that. When that occurs, all Islanders will benefit.

INDUSTRY

INNOVATION AND TECHNOLOGY AGENDA

Hon. Donald H. Oliver: Honourable senators, September 11 changed the world. It also changed the way in which public policy-makers develop their priorities. In Canada, we are now obsessed with deficiencies in our defence and security capability.

In our panic over our inadequate security, we must not forget other priorities that we must develop concurrently. I was happy to read recently in the newspapers that the Minister of Industry, the Honourable Brian Tobin, is prepared to take up this matter in cabinet to ensure that high-speed broadband Internet access is available to the rural areas of Canada.

• (1440)

In the past, Canada has been a leader in information technology, and we simply cannot take our position among the world's most innovative nations for granted. Minister Tobin is talking about the so-called innovation agenda, one that promotes investment in research and development to help keep Canada as a world leader. This agenda was supposed to have been the showcase when Parliament opened this fall.

Another way to look at it is that if we continue to put money into the innovation agenda, it will support and supplement our needs to develop defence security and intelligence networks.

One writer put it this way:

First, our current situation places new, urgent demands on our continuous capacity for innovation. World War II was largely brought to a close by extraordinary advancements in encryption and — for better or for worse — atomic physics.

Honourable senators, read the *Star's* coverage of the preparations for this war. Analyst after analyst has contended overcoming our opponents will require advanced intelligence gathering capability, sophisticated weapons technology and cutting-edge surveillance and communications technology. Abandoning the development of innovations in this technology to other nations would be as irresponsible as abandoning the ground war or the relief effort to others.

Finally, there is no question one day the United States and its allies will have been successful in bringing an end to the regimes that have brought terror to the world, and when that time comes, where will Canada be in terms of its innovation and technology agenda? To ensure we are not picking up the rear, surely this is the time to give support to an agenda that helps keep us in the lead.

Honourable senators, I feel so strongly about this issue that it is my intention to later set down an inquiry and speak to this matter at length before Christmas.

AGRICULTURE AND AGRI-FOOD

UNITED STATES DRUG ENFORCEMENT AGENCY DECISION AGAINST IMPORTATION OF CERTAIN HEMP PRODUCTS

Hon. Lorna Milne: Honourable senators, I rise this afternoon to inform the Senate of an emerging crisis in the new Canadian hemp industry. On October 9 of this year, the U.S. Drug Enforcement Agency announced that all hemp products that can be ingested or used as cosmetics can no longer be imported into the United States or sold there. As a result of this action, many Canadian producers of non-sterilized hemp seed and hemp oil products will be in great difficulties. The rapid growth of this promising agricultural industry has been severely injured.

The most frustrating part of this decision by the DEA is that it is based on popularly held misconceptions about hemp and not on any scientific rationale. In its press release, the DEA stated the following:

Hemp is part of the cannabis plant, which is also known as marijuana... Hemp and marijuana are actually separate parts of the species of plant known as cannabis... Hemp cannot be produced without producing marijuana.

These statements in essence are wrong. The scientists at the DEA should get their science straight before making this kind of irresponsible statement. As I have informed honourable senators many times in this place, hemp and marijuana are two completely different, although related, things.

Cannabis is a plant. That much they got right. There are many different varieties of cannabis. Some varieties, called marijuana, have been developed by the drug lords to have high levels of THC, up to 20 per cent. It is the THC that creates the high when one smokes marijuana.

By the same token, other varieties of cannabis, both naturally occurring and engineered, have minutely low levels of THC, less than 0.1 per cent. This industrial hemp has been used to create fibres, cosmetics and food, and it is these last two products that the DEA has decided to arbitrarily ban from American stores.

Honourable senators, I call upon the government to work with the DEA to reopen the American market to Canadian hemp oil and hemp seed products. It is essential that we protect Canadian jobs from the apparent widespread ignorance south of the border. Canadian hemp producers make fine products that are useful in hundreds of ways, and they need our support and our assistance right now.

Honourable senators, this little tube that I am holding is hemp oil lip balm. I have been using it since the summer. It is lime flavoured. If I put it on my lips and lick it off, I have ingested hemp oil.

I can tell honourable senators that I am not high, nor am I about to get high. I will not test positive for THC. I have never smoked marijuana in my life, and all that might happen from taking this product is that my levels of bad cholesterol may be lowered.

Industrial hemp is not the same variety as marijuana, no more so than is a Manitoba maple the same variety as the sugar maples that are in beautiful red foliage outside our windows in Ottawa right now. I believe the officials in the DEA could use an introductory course in Botany 101. I am also informed that some manufacturers, I believe in the United States, will challenge the DEA under NAFTA.

ROUTINE PROCEEDINGS

THE SENATE

NOTICE OF MOTION TO APPOINT SPECIAL COMMITTEE ON BILL C-36

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, with leave the Senate and notwithstanding rule 57(1)(d), I give notice that tomorrow, October 17, 2001, I shall move:

That a special committee of the Senate be appointed to examine the subject matter of Bill C-36, *An Act to amend the Criminal Code, the Official Secrets Act, the Canada Evidence Act, the Proceeds of Crime (Money Laundering) Act and other Acts, and to enact measures respecting the registration of charities, in order to combat terrorism*, in advance of the said bill coming before the Senate;

That the bill be referred to the said special committee in due course;

That the following Senators be appointed to serve on the Special Committee: namely, the Honourable Senators Andreychuk, Bacon, Beaudoin, Fairbairn, P.C., Fraser, Furey, Jaffer, Kelleher, P.C., Kenny, Murray, P.C., Stollery and Tkachuk, and that four members constitute a quorum;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee;

That the committee have power to sit during sittings and adjournments of the Senate;

That the committee have power to authorize television and radio broadcasting, as it deems appropriate, of any or all of its proceedings;

That the committee have power to retain the services of professional, clerical, stenographic and such other staff as deemed advisable by the committee; and

That the committee be permitted, notwithstanding usual practices, to deposit any report related to its study of the subject matter of the bill with the Clerk of the Senate, if the Senate is not then sitting, and that any report so deposited be deemed to have been tabled in the Chamber.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted that we receive this motion tomorrow after only one day's notice?

Hon. Senators: Agreed.

[Translation]

ADJOURNMENT

The Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Wednesday, October 17, 2001 at 1:30 p.m.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

[English]

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

COUNCIL OF EUROPE PARLIAMENTARY ASSEMBLY
MEETING, JUNE 25-29, 2001—REPORT OF
CANADIAN DELEGATION TABLED

Hon. Peter A. Stollery: Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-Europe Parliamentary Association to the Parliamentary Assembly of the Council of Europe, Third Part Session, held in Strasbourg, France, from June 25 to 29, 2001.

• (1450)

CONDEMNATION OF TERRORISM

NOTICE OF MOTION

Hon. Jeremiah S. Grafstein: Honourable senators, I give notice that on Thursday next, October 18, 2001, I will move:

That the Senate:

- Considering Resolutions 1368 and 1373 adopted by the Security Council of the United Nations on September 12, and September 28, supporting initiatives to eradicate international terrorism that threaten peace, security, human rights and freedoms and political order of the free and democratic society; and

- Considering that in its special session of October 2, 2001 the North Atlantic Council determined that "the attack against the United States on September 11 was directed from abroad and shall therefore be regarded as an action covered by Article 5 of the Washington Treaty, which states that an armed attack on one or more of the Allies in Europe or North America shall be considered an attack against all";

- Condemn unequivocally the use of violence and terrorism to overthrow the democratic order and the elimination of human rights and freedoms;

- Support the decision of the Government calling upon the Canadian Armed Forces on active service to join the international campaign against the perpetrators of the terrorist attacks of September 11;

- Express its preoccupation that humanitarian support be given to civilians affected by that campaign;

- Express its urgent concern that the authors and supporters of those terrorist attacks are brought to justice accordingly;

- Express its strong belief that it is through negotiation and peace settlement that legitimate claims of the States should be dealt with within the International Order; and

- That upon adoption of this motion, the said motion shall be deemed referred to the Standing Senate Committees on Foreign Affairs and Defence and Security for study and report back to the Chamber in the next 30 days.

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTINGS OF THE SENATE

Hon. Lorna Milne: Honourable senators, I give notice that I will move:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at 5:00 p.m. on Tuesdays, October 16, 23 and 30, 2001, for the purposes of its examination of Bill C-7, An Act in respect of criminal justice for young persons and to amend and repeal other Acts, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

QUESTION PERIOD

CITIZENSHIP AND IMMIGRATION

COMMENTS BY CHAIRMAN OF IMMIGRATION AND REFUGEE BOARD REGARDING IMMIGRATION AND REFUGEE PROTECTION BILL

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, recently, I asked the minister to comment on the extraordinary statement made by the Minister of Citizenship and Immigration at the time to the effect that parts of Bill C-11, the immigration bill, were in effect although the bill is still before the Senate. The answer was not very satisfactory the following day. It was in the form of a letter from the minister, who, in the last paragraph, alluded to some media reports and distortions.

In effect, honourable senators, nothing was distorted. The quotations came from a tape and were accurate.

I raised this issue as a question of privilege. The Speaker, in his opinion, did not recognize it as such. If I bring up a similar situation today, it is because others who will be responsible for the application of Bill C-11 have already engaged in its application.

I refer to the Chairman of the Immigration and Refugee Board, who, on October 11, sent a memorandum addressed to all IRB personnel. It reads as follows:

The purpose of this memorandum is to advise you that I am commencing the selection process for the position of Deputy Chairperson of the proposed Refugee Appeal Division.

The proposed Refugee Appeal Division can be found in Part 4 of Bill C-11, which, in clause 151, creates four new divisions, of which this is one. That is bad enough by itself, but the memorandum goes on to state:

Please note that all interest for the above position should be indicated in writing by October 22, 2001...

Honourable senators, the bill will still be before the Senate on that day, as we have agreed here to dispose of it no later than five o'clock on October 31. From the list of witnesses that will be heard next week, I gather that we will have the bill before us long after October 22. Yet applications are to be received for a position before even its creation has been approved.

Included in a "Statement of Qualifications" attached to the memorandum is the following: "thorough knowledge of the Immigration Act." The Immigration Act is in the form of a bill before the Senate. It is not in a final form. There may be amendments brought to it. Those amendments, if approved, will be sent to the House of Commons. This may be theoretical. It may be supposition. Nonetheless, the fact that the Chairman of the Immigration and Refugee Board has gone ahead with application of part of the bill shows contempt for this place and for Parliament as a whole.

I am asking the minister to immediately get in touch with her colleague the Minister of Citizenship and Immigration and ask her to instruct the chairman of the board to withdraw his memorandum and to ignore any applications he has received. If this is not done, the question is asked again: What are we doing examining proposed law in the form of bills if we are told for the second time — the first time by a minister and this time by the Chairman of the Immigration and Refugee Board — that parts of the bill are being applied as if they were already law?

I think there is a question of privilege there, but I will respect the opinion of His Honour on that matter. Certainly, it is contempt of Parliament and contempt of the whole process.

Before she answers, I remind the minister that a similar situation took place in 1998, when we were examining the Canada pension bill. We found, thanks to Senator Tkachuk and Senator Kinsella, that some actuarial tables had been posted on the Department of Revenue's Web site despite the fact that the department had guaranteed this place in writing that no information would be given in any form until the bill was passed. This is exactly the same situation. Only when they were found out did Revenue Canada backtrack, post a disclaimer and finally, I believe, withdraw the information completely.

We have a similar case here. I would hope that the government through the minister, will lead us to the same result. Otherwise, some of us are left to wonder why we examine a bill before committee only to find out, as in this case, that it is already in application.

Senator Kinsella: Good question!

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I wish to thank the honourable senator for his question. I totally agree with the comment made by Senator Kinsella that it is a good question. In fact, I agree with the spirit of everything that Senator Lynch-Staunton has had to say.

I wish to assure the honourable senator that I will speak to the minister this afternoon. I am not sure that I can instruct her, but I can speak with her. I will ask her to instruct her officials not only to withdraw the circular but also to withdraw all applications received thereon.

• (1500)

FINANCE

POSSIBILITY OF ECONOMIC STATEMENT

Hon. David Tkachuk: Honourable senators, the surplus was at risk before September 11 and now even the Minister of Finance concedes that the books could soon be in the red again. We are told that neither the tax cuts nor the increased health spending announced last fall are in jeopardy but that other spending will have to be cut to pay for new spending priorities.

Let me list a few of the spending priorities announced lately: \$280 million last week for increased security; \$160 million to compensate airlines; \$447 million to Pakistan for debt relief for an annual cost of \$16 million. We have donated \$6 million for Afghan refugees. Our military contribution price tag has not yet come in. Has the government begun to identify programs that are likely to be scaled back to help keep its books in balance?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the question as posed includes a great deal of supposition. I do not accept that the surplus was at risk prior to September 11. However, circumstances have significantly changed since September 11. I think it is incumbent upon the government to be very fulsome in its economic update, which it will deliver soon. At that time, I understand the minister will indicate the future spending priorities.

THE SENATE

REFUSAL OF GOVERNOR OF BANK OF CANADA TO APPEAR BEFORE BANKING, TRADE AND COMMERCE COMMITTEE

Hon. David Tkachuk: Honourable senators, that response leads into my second question. The Minister of Finance promised an economic statement quite some time ago. We invited him to come before the Standing Senate Committee on Banking, Trade and Commerce to talk about the state of the country as a result of the events of September 11, which he said he would do after the economic statement is given. We have not yet received a date. Can the Leader of the Government in the Senate give me any indication of when that will take place?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am informed that this will take place in the month of October, which we are in now. I know the date was to be announced after meetings with private sector economists, and I understand those meetings are taking place today. I would expect to have a date very shortly.

Senator Tkachuk: We have also sent a letter, through Senator Kolber, Chairman of the Banking Committee, to the Governor of the Bank of Canada. The governor has also refused to come before the Senate committee. I find it intolerable that, as we go to

war, the Minister of Finance will not appear before the Banking Committee and the Governor of the Bank of Canada refuses to appear to give a statement. Will the minister use her good offices to urge the head of the Bank of Canada to appear before the Standing Senate Committee on Banking, Trade and Commerce?

Senator Carstairs: As honourable senators are aware, there are many pressures on the government at the present time. Various departments are extremely busy as a result of the activities of September 11. I would hope the Governor of the Bank of Canada, who has attended before the Banking Committee in the past, would be agreeable to do so in the very near future. I will speak to the Minister of Finance about both the desire for the governor to appear but also the desire for him to appear.

TRANSPORT

AIRLINE INDUSTRY—ADVANCED EXPLOSIVE-DETECTION SYSTEMS TO SCAN LUGGAGE

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. It relates to the government's announcement that it is purchasing advanced explosive-detection systems for checked luggage screening at our airports.

An article in Sunday's *Ottawa Citizen* revealed that even once the systems are up and running, Canada will not meet the level of explosive detection for checked luggage that is in place in Europe. Currently, in the U.K., 100 per cent of all checked bags are scanned for explosives. The European Civil Aviation Conference has set the end of 2002 as the target date for screening all checked bags at airports in its 32 member countries.

In Canada, there has been no commitment to a target date for scanning all checked baggage, even with the new equipment. In other words, some checked bags will still be loaded onto Canadian passenger jets without any screening at all. Has or will this government commit to a target date for screening all baggage for explosives and, if not, why not?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I understand that the Department of Transport is examining the technology behind advanced explosive-detection machines. It is their desire to get the most up-to-date equipment. I want to make very clear that to this point there has been no commitment to any specific machinery. The department is examining the potential need for such equipment and the most up-to-date equipment available.

AIRLINE INDUSTRY—GOVERNMENT ASSISTANCE TO OFFSET CURRENT DOWNTURN

Hon. Donald H. Oliver: Honourable senators, still in the area of transport, Canada 3000 has warned that it needs more aid from the federal government or it could run out of cash by Christmas. According to Canada 3000's chairman, John Lecky, neither of the major airlines, Air Canada nor Canada 3000, will make it past Christmas without some sort of assistance. That is according to *The Globe and Mail*, October 16, 2001.

Mr. Lecky says that the \$160 million in support the federal government has already provided to the airlines to compensate them for when the air space was closed is not enough. Mr. Lecky also said the Canadian airlines need loan guarantees similar to the sort that Washington has offered to the American carriers.

Is the government considering a contingency plan for our airlines to account for the protracted decline in airline bookings as a consequence of the September 11 terrorist attacks?

Hon. Sharon Carstairs (Leader of the Government): The issue raised by the honourable senator is important. We know that travel is down significantly, particularly international travel, which has impacted airlines such as Canada 3000. I am pleased that he recognized, as did the chair of Canada 3000, the infusion of money for the period of time in which the airlines were all prohibited from travelling in Canada.

I assure honourable senators that the government is monitoring this situation very carefully. It is looking at a variety of options, including the option probably preferred by all of us — that there be a private sector solution.

[Translation]

INTERNATIONAL COOPERATION

AID TO AFGHANISTAN

Hon. Pierre Claude Nolin: Honourable senators, my question is for the Leader of the Government in the Senate. Since September 11, and since last week in particular, the member countries of the international coalition, under the leadership of the U.S. government, have decided to move on from words to action and to engage in a military campaign in Afghanistan.

Increasingly, especially in the past two or three days, we have heard international food aid organizations reminding the coalition members, primarily the U.S., but Canada as well, that civilian populations will be affected by this military campaign. If I am to believe what I hear, from both this government and the U.S. government, civilian populations are not the target, but a very specific group of terrorists.

What does the Canadian government intend to do in response to this appeal from these international organizations?

[English]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, apparently a great number of promises and commitments have been made, but to date only \$40 million is on the table, of which \$6 million is Canada's. We have shown strong leadership thus far in this field, but the situation is being monitored on a daily basis. The \$6 million is in addition to the aid package of \$12 million that was put into place for the fiscal year, long before the events of September 11, bringing the total commitment to Afghans to \$18 million.

Minister Minna says that this aid is being monitored. Humanitarian aid appears to be a great need not only for the refugees at the border — whose numbers do not seem to be getting larger — but inside Afghanistan itself. The problem is how to deliver that aid.

• (1510)

I am sure that over the weekend many of us read about the packages not reaching the individuals who require them. There is also a very serious concern about land mines and the danger presented by dropping supplies into what is potentially land-mined territory. While the dropping of supplies may provide one aspect of life support, the existence of land mines endangers another aspect of life support.

I assure the honourable senator this is being monitored on a daily basis.

[Translation]

Senator Nolin: The minister's reply made reference to the U.S. government's intervention, which consists in dropping food rations. I will keep my opinion as to how we might perceive such a gesture to myself. I am far more concerned by the comments from international organizations critical of the U.S.'s way of spreading its largesse. They are of the opinion that the best way to reach those in greatest need of food aid would be to use the channels they themselves have set up for that purpose. The minister says that the Canadian government is monitoring the situation. To what type of delivery mechanism does the minister believe it will give precedence? Where does the minister think it will spend the funds allocated to this?

[English]

Senator Carstairs: Honourable senators, to date they have been using NGOs that have both knowledge and expertise in the delivery of food into the areas occupied primarily by refugees, some of whom are right on the border and others of whom are across the border. As honourable senators know, in some cases the borders have been blocked.

If additional access routes are to be developed, I will get that information to the honourable senator.

AFGHANISTAN—POLICY TOWARD TALIBAN REGIME

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is addressed to the Leader of the Government in the Senate. Is it the policy of the Government of Canada that the current Taliban regime which governs Afghanistan be removed from power?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the present government of Afghanistan, which is Taliban directed, has been, until this point in time, protecting the terrorists. They have been asked to release those terrorists. To this point, they have failed to do so. Therefore, the hope is that the people of Afghanistan might choose a different government.

AFGHANISTAN—POLICY TOWARD POST-TALIBAN REGIME

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, if it is the policy of the Government of Canada that the current Taliban regime which governs Afghanistan be removed, what is the policy, if any, of the Government of Canada in terms of the post-Taliban regime? Does the Government of Canada have a position? If so, what are some of the cornerstones of that policy?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, all I can indicate is that there is an active and ongoing discussion between members of the coalition and the broader community as to the future of Afghanistan. There is a great deal of recognition that the Afghani people have not been in crisis just since September 11 when we, perhaps, became more aware of the problems of the Afghan people. They have been suffering from a lack of food, education and basic hygiene for at least 20 years.

One of the figures that shocked me when I saw it is that power is available to only 5 per cent of the population of Afghanistan. We are talking about an extraordinarily poor country. The coalition partners and the broader community are discussing how Afghanistan can be helped in the future.

NATIONAL DEFENCE

AFGHANISTAN—EXIT STRATEGY FOR TROOPS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I understand that the Prime Minister is in Halifax today to bid farewell to a number of Armed Forces units that are setting sail for that theatre of the world. Does the government have a policy, any norms or criteria set out that will determine its exit strategy? How will the Government of Canada know when it is time to bring those forces back to Canada?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the question of the honourable senator roams into the area of speculation. I believe that the Prime Minister will be in Halifax tomorrow and not today. At that time, he will bid farewell to our troops as the Governor General did yesterday.

I think that everyone, including the Americans, wishes to stop as soon as possible the engagement that is taking place at this time. That clearly is the exit strategy. However, there will not be any exit until the terrorists have been caught and brought to justice.

FOREIGN AFFAIRS

AFGHANISTAN—OFFICIAL STATEMENT CONDEMNING TREATMENT OF WOMEN

Hon. David Tkachuk: Honourable senators, has the Government of Canada ever officially issued a statement condemning the Taliban, the Government of Afghanistan, for its barbaric treatment of women?

Hon. Sharon Carstairs (Leader of the Government): I cannot tell honourable senators if there has been an explicit statement to that effect. If there has been such a statement, I will ensure that the honourable senator receives it.

NATIONAL DEFENCE

AFGHANISTAN—SHIPS ASSIGNED TO MIDDLE EAST

Hon. Terry Stratton: Honourable senators, I wish to follow up on Senator Kinsella's question with respect to the Prime Minister travelling to Halifax tomorrow to see off our troops. It is my understanding that on October 8 the Minister of National

Defence announced that Canada's military contribution to the war on terrorism would include six ships, namely, a naval task force group of five warships and one other ship. These ships are being deployed to meet our NATO commitments.

To date, as I understand it, only five have been named. Could the minister tell me why?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, my understanding is that one ship was already on the way to its destination. Five will leave tomorrow. That makes a total of six ships.

I should also inform the Senate that of the countries involved, Canada's contribution is the third largest of all contributions to this point, ahead of both France and Australia who have committed troops to this endeavour.

Senator Stratton: Honourable senators, as I understand it, these ships are the frigates *Halifax*, *Charlottetown* and *Vancouver*, the destroyer *Iroquois* and the supply ship *Preserver*. Does the minister have the name of the sixth ship?

Senator Carstairs: Honourable senators, I believe it is the *Halifax*.

Senator Stratton: Honourable senators, I mentioned the *Halifax* in my question. If the minister can get the information for me, I would appreciate it.

Senator Carstairs: I will get that information for the honourable senator as quickly as possible.

• (1520)

FOREIGN AFFAIRS

AFGHANISTAN—INVOLVEMENT IN POST-WAR REHABILITATION STRATEGY

Hon. Douglas Roche: Honourable senators, I received a communication from the distinguished Canadian Judge Gurcharan Singh Bhatia, CM, who is President of the John Humphrey Centre for Peace and Human Rights in Edmonton, who I think was probably speaking for many Canadians when he asked me to find out if Canada is actually involved in the planning or strategy for the post-war, post-Taliban rehabilitation in Afghanistan.

This work has already been started by the United Nations. My question is: In what manner is Canada sharing in the planning of the post-war rehabilitation in Afghanistan?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as I answered similar questions that were posed this afternoon, the government has already entered into discussions with their allies as to this exit strategy.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table three delayed answers, first to a question raised by Senator Wilson, on September 27, about the release of personal information on students by universities to police and government agencies, and second to a question raised by Senator Forrestall, on September 26, about HMCS *Charlottetown*.

SOLICITOR GENERAL

RELEASE OF PERSONAL INFORMATION ON STUDENTS BY UNIVERSITIES TO POLICE AND GOVERNMENT AGENCIES

(Response to question raised by Hon. Lois M. Wilson on September 27, 2001)

The threat environment has changed dramatically following the September 11 attacks. As I am sure you can appreciate, this has resulted in a higher level of investigative activity in Canada.

I can assure you that the RCMP and other investigative agencies are sensitive to the special role that academic institutions play in a free and democratic society, as well as to the need for preserving the free flow of ideas.

In this regard, the RCMP and other government agencies are responding to the current situation in the most professional and least intrusive ways possible.

A university registrar is not required to release information unless satisfied that the request is a legitimate part of a police and/or security investigation.

Such investigations are not "fishing expeditions", rather they are intended as much to eliminate genuine students from unwarranted suspicion as they are focussed upon identifying those who may be a threat to the safety and security of the Canadian public.

The Government of Canada's approach to fighting terrorism has been and will continue to be grounded in our commitment to ensure a balanced approach to individual rights and public safety, within the parameters of our legal system.

NATIONAL DEFENCE

PRESENT LOCATION AND ASSIGNMENT OF HMCS CHARLOTTETOWN

(Response to question raised by Hon. J. Michael Forrestall on September 26, 2001)

QUESTION:

Is the HMCS *Charlottetown* or a similar vessel travelling with the USS *Theodore Roosevelt*? Why and what is its mission?

ANSWER:

HMCS *Charlottetown* returned from OP AUGMENTATION (Persian Gulf) on July 1, 2001 and has been alongside since for leave and maintenance.

HMCS *Charlottetown* will be part of the Canadian Naval Task Force to be sent to the Middle East.

QUESTION:

Otherwise, why is that vessel at sea at this time? Is it taking part in joint exercises? Where is it? When is it expected back in port? Are the families aware of the location and return date of the members of crews on board any Canadian war ship that may be out of port on duty?

ANSWER:

There were only two Canadian ships at sea around September 26, 2001:

- HMCS *Saint John*: Sea Trials off Halifax; and
- HMCS *Halifax*: With Standing Naval Force Atlantic and conducting exercise that week with Standing Naval Force Mediterranean. It was confirmed that no carrier was present.

Families are aware of the general location of the ships that family members are on, and know the intended return date for the ships that are not currently in homeport.

[English]

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTINGS OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Lorna Milne: Honourable Senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at 5:00 p.m. on Tuesdays, October 16, 23 and 30, 2001, for the purposes of its examination of Bill C-7, An Act in respect of criminal justice for young persons and to amend and repeal other Acts, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have not heard arguments advanced as to why this committee should be sitting even though the Senate is sitting. Honourable senators will recall that our practice is that if a minister appears before a committee, or if a witness can only be heard by a committee at a certain time, that on occasion the Senate will take the decision that we would hold in abeyance the rule that a committee cannot sit when the Senate is sitting. I should like to hear the special case in order to satisfy me, at least, that we should have a committee sitting when the Senate is sitting. The priority is in this chamber, not in committee. Perhaps the Chair of the Standing Senate Committee on Legal and Constitutional Affairs might make a special case.

Hon. Lorna Milne: Honourable senators, thank you for the opportunity. As you know, I am one of the most assiduous members to attend when the Senate is sitting, and I try never to call committee meetings while the Senate may be sitting. However, in this case, we have Bill C-7 in front of us, and I believe the list of witnesses who want to appear before the committee so far is well over 30. We also have received Bill C-24, to amend the Criminal Code regarding organized crime and law enforcement. It appears to be an interesting bill and we want to take our time to deal with it properly.

I have discussed with committee members and received general agreement on the proposal that we sit on Tuesdays rather than Fridays. In order to get through the workload, and hear the witnesses who want to appear, we will need to meet three times a week. The general consensus seemed to be five o'clock on Tuesday.

Senator Kinsella: I wonder if I could ask the honourable senator, regarding Bill C-7, the youth justice bill, is the Government of Quebec listed as one of those 30 witnesses?

Senator Milne: Yes, indeed, as is the Government of Ontario. It will be most interesting to hear the two of them in juxtaposition.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

[Translation]

ORDERS OF THE DAY

INTERNATIONAL BOUNDARY WATERS TREATY ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Eymard G. Corbin moved the second reading of Bill C-6, to amend the International Boundary Waters Act.

He said: Honourable senators, it is my pleasure to begin debate on second reading of Bill C-6, to amend the International Boundary Waters Treaty Act. Obviously, I support this important initiative.

Before starting my comments, I should like to congratulate our three new colleagues, Senators Biron, Phalen and Day. I wish them much satisfaction in fulfilling their duties.

Honourable senators, we all recognize that fresh water, as a natural resource, is different from other resources. It is ubiquitous in every aspect of our daily lives: at home, at work, in industry and even in our leisure activities. We owe, in large part, our economic and agricultural development in Canada to the fact that we have abundant resources of clean fresh water.

Fresh water has been a factor in deciding where factories, cities, towns, parks, and even our individual houses and cottages are located, in addition to influencing how we travel and ship goods. And last and most important, water plays a critical role in the health of our ecosystems and all living organisms that depend upon them.

I know that I do not need to convince you. Canadians expect all levels of government to take immediate measures to protect Canadian waters and boundary waters.

[English]

I now want to get down to brass tacks. Over the decades, Canadians and the Government of Canada have responded consistently to extravagant schemes to redirect the waters of the North American continent. Canada's water is not for sale. Many of these designs have involved the Great Lakes, which contain 20 per cent of the world's fresh water. The aim of Bill C-6, to amend the International Boundary Waters Treaty Act, is to protect bodies of water we share with our American neighbours, including the critical resource of the Great Lakes, from bulk water removal under federal law. As much can be said about the St. Croix River, between New Brunswick and Maine, not to mention others.

The law as it currently reads implements the 1909 Canada-U.S. Boundary Waters Treaty, one of the oldest treaties and a landmark in Canada-United States relations. With over 300 lakes and rivers along and criss-crossing the Canada-U.S. border, the drafters of the treaty recognized the critical role played by water, and the importance of providing a structure and mechanism to prevent and resolve disputes between the two countries. The International Joint Commission was established at the outset to address these concerns. Today, 92 years later, we are using the same mechanisms to ensure that in this century these waters will be protected for future generations in both of our countries.

• (1530)

I know honourable senators will agree with me when I say that we were and are fortunate and greatly indebted to successive members of the International Joint Commission and its professional staff who have performed so loyally in the interests of both Canada and the United States of America over the past several decades.

[Translation]

The amendments to the International Boundary Waters Treaty Act in Bill C-6 are based first on Canada's treaty obligation to the U.S. not to take actions in Canada which affect levels and flows of boundary waters on the U.S. side of the border. Obviously, the U.S. has the same obligation to Canada.

The amendments also have a second objective, to protect the integrity of boundary water ecosystems. The amendments have three key elements: a prohibition provision; a licencing regime; and sanctions and penalties.

[English]

The prohibition provision imposes a ban on the bulk removal of boundary waters out of their water basins. Removal of boundary waters in bulk, as set out in the prohibition and the regulations, includes large projects which typically have physical features that allow a continuous flow of water such as natural or artificial diversions, pipelines, canals, tunnels, aqueducts or channels, and volume thresholds for removals by various modes of transport such as ships or trains. Exceptions such as the following will be considered: ballast water, short-term humanitarian purposes, and water use in the production of food or beverages, for example, bottled water.

While the scope of the bill is narrow, because Canada's jurisdiction in this field is also narrow, its impact is significant. While there are many boundary waters along the Canada-U.S. border affected by the prohibition, the main focus is on the Great Lakes, the largest system of fresh surface water in the world.

Many of the bulk water removal projects over the past few decades up to and including the Nova project of May 1998 have included Great Lakes water. This legislation, if passed, enables Canada to block any future plans for bulk water removal out of the Great Lakes.

[Translation]

There would be a licensing regime separate from the amendments dealing with prohibition. Licences would cover dams and other projects in Canada that obstruct boundary and transboundary waters if they affect the natural level and flow of water on the other side of the boundary. Under the treaty, such projects must have the approval of the International Joint Commission and the Government of Canada.

I would point out that the approval procedure for these projects has been applied without problem for 92 years under the treaty. The licencing regime is the second objective covered by the bill and is to modernize the Government of Canada's approval process for works covered by articles 3 and 4 of the treaty. I would draw your attention, however, to the fact that this part of the bill is separate from the provision on prohibition.

Canada considers a more explicit, better structured and more transparent approval process is necessary to better fulfill its obligations under the treaty. The wording of Bill C-6 is absolutely clear on this point. Any proposal for diversion of boundary waters outside of the basin would be captured by the prohibition provision, not covered by the licensing regime.

The prohibition in Bill C-6 excludes bulk removals out of water basins from the licensing regime expressly and imposes a prohibition on such projects binding on the government.

[English]

Bill C-6 will also allow for clear and strong sanctions and penalties. This will give teeth to the prohibition and ensure Canada is in a position to enforce it.

I would also like to set Bill C-6 in the general context of Canada's overall strategy announced on February 10, 1999, to prohibit bulk removal of water out of all major Canadian water basins. Why did the Government of Canada take this initiative?

The removal and transfer of water in bulk out of a water basin may result in irreversible ecological, social and economic impacts. The government's goal is to ensure for future generations of Canadians the security of our freshwater resources and the integrity of our ecosystems.

However, any credible policy approach to the issue of bulk water removal must address two important elements: First, the management of Canadian waters involves multiple jurisdictions; second, any approach should take into consideration the man-made and natural factors that exert significant stresses on our water resources.

To pretend that one government can solve the issue with a wave of the legislative wand, or that the issue may be simply reduced to one aspect such as water export, in the words of some critics, is unrealistic, ineffective and undermines the goal we all share. Water does not respect political boundaries. In the case of the Great Lakes system, two federal governments, eight state governments, two provincial governments, and a number of regional and binational organizations are involved in managing and protecting freshwater resources.

The question of bulk water removal also entails the significant pressure and uncertainty of diversions, consumption, population and economic growth, and the effects of climatic change and natural cyclic phenomena. Finally, we must factor in the important influence of the cumulative effects of so much pressure on our water resources.

[Translation]

All levels of government must act effectively and in concert with their respective jurisdictions, hence Canada's February 1999 initiative included three parts. First, Canada would act within its jurisdiction. By Canada, I mean the federal government. Bill C-6 follows up on that commitment. Second is the recognition of the primary responsibility of provinces and territories for water management. The federal Minister of the Environment proposed a Canada-wide accord to prohibit bulk water removal out of all major Canadian water basins. As of today, several if not most provinces have put into place or are developing legislation and policies to prohibit bulk water removal.

Third, Canada and the United States agreed on a reference to the International Joint Commission to investigate and make recommendations on consumptive uses, diversions and removals in the Great Lakes, the greatest of our shared waters. In its February 2000 report, the IJC concluded that the Great Lakes require protection from bulk water removals and other factors. Bill C-6 is consistent with and supportive of the IJC's conclusions and recommendations.

[English]

The IJC concluded that the water of the Great Lakes is a non-renewable resource. The vast volume of the Great Lakes is deceiving. Less than 1 per cent of the water is renewed every year through the hydrological cycle. The rest — the other 99 per cent of the water — is a gift of the glacial age, which ended between 10,000 and 12,000 years ago.

• (1540)

The IJC report also indicated that, if all the interests in the Great Lakes basin are considered, there is never a surplus of water. Every drop of water has several potential uses.

Forty million Canadians and Americans depend on the waters of the Great Lakes for every aspect of life: day-to-day living, industry, recreation, transportation and trade. On top of this, the ecosystem of the Great Lakes has its own equally but fundamentally important demands on the water. As we are dependent on the future health of the Great Lakes, the future health of the ecosystem is dependent on our actions.

The International Joint Commission report also demonstrated the fallacy that fresh water flowing into the ocean is "wasted" and therefore surplus. The IJC noted that the influence of the freshwater outflow of the Great Lakes has critical ecological effects for the Gulf of St. Lawrence that may even be detected as far as the Gulf of Maine. To comprehend, honourable senators, the magnitude of that statement, I invite you to have another look at the North American seaboard.

[Translation]

The IJC concluded that the Great Lakes need to be protected, given current and future tensions and uncertainties. All levels of government in Canada and in the United States of America received recommendations on the measures to be taken. These recommendations form the basis of a consistent policy on both sides of the border regarding the protection of the Great Lakes. The Government of Canada agrees with the conclusions of the IJC. Thanks to the provisions of Bill C-6 prohibiting bulk water removal, the protection of the Great Lakes will be ensured, as recommended by the IJC.

The Great Lakes form the greatest freshwater basin in the world and if the IJC feels that we must be cautious in managing the water of the Great Lakes basin, the same is undoubtedly true of smaller bodies of water or ecosystems across Canada.

Honourable senators, I should also like to mention four questions that were raised concerning Bill C-6 and Canada's strategy on bulk water removal.

First, the scope of Bill C-6; second, Bill C-6 and provincial jurisdiction; third, why not prohibit exports; and fourth, the need to cooperate with the United States to protect the Great Lakes.

With regard to the scope of Bill C-6, we have never claimed that it is the single answer to cover all of Canada's waters. At the outset, we recognized that to completely protect our freshwater resources from bulk removals, all levels of government had to act within their jurisdictions. This recognizes the important role that provinces must play as the owners of natural resources.

In 1999 the Minister of the Environment proposed action by all levels of government in Canada to prohibit bulk water removal out of major Canadian water basins. Significant progress has been made.

In May 1998 only two of fourteen federal, provincial and territorial jurisdictions in Canada had legislation to prohibit bulk water removal. Today all fourteen have put into place or are developing legislation and policies to prohibit bulk water removal.

I believe that the action of the provinces, complemented by what the federal government is proposing today, will set up a strong legislative framework to protect Canada's freshwater resources. That is the goal we must all work toward.

[English]

Bill C-6 does not expand federal jurisdiction or activities into provincial areas of competence, either with regard to the prohibition provision or the licencing regime. Federal jurisdiction is being applied only to the degree stipulated in the treaty.

With regard to the licencing provision under the amended act, the fundamental test of whether or not a future project triggers federal government and International Joint Commission involvement will remain precisely what it has been since 1909. Does it fall within the scope of the treaty? Only the federal government has authority to fulfil the treaty's obligations. Nevertheless, the federal government has consulted extensively with the provinces since 1998 on the proposed amendments. It will continue to consult with the provinces on the licencing provisions and the regulations.

Some people have advocated federal unilateral action through an export ban on water. The government believes such an approach is wrong and unrealistic, especially in the federal-provincial context and the way we do business in this country. It would be ineffective. Worse, it would actually undermine the goal we all share.

Unlike Canada's approach, which has focused on comprehensive environmental objectives in a manner that is trade-consistent, an export ban would not address the environmental dimension. It would also have possible constitutional limitations and could be vulnerable to trade challenges.

An export ban would only regulate the cross-border movement of water once it has become a good and would therefore be subject to international trade agreements. It would likely be contrary to Canada's international trade obligations. We can examine these various matters during the detailed study of the bill at the committee stage.

[Translation]

Under Canada's environmental approach, water is protected and regulated in its natural state, before the issue of exporting arises and before it becomes a commercial good or a saleable commodity. This approach is consistent with our international trade obligations. Canadian governments have full sovereignty over the management of water in its natural state, and in exercising this sovereignty are not constrained by trade agreements, including the NAFTA.

Finally, it is self-evident that Canadians must work closely with U.S. jurisdictions, both federal and state, to ensure that the regimes on both sides of the border are as consistent and restrictive as possible. Canada and the U.S. agreed on a reference to the International Joint Commission to investigate and make recommendations on consumptive uses, diversions and removals in the Great Lakes.

The International Joint Commission in its February 2000 final report made recommendations which provide the basis for developing a consistent approach to protecting the Great Lakes on both sides of the border. The eight Great Lakes states are opposed to large-scale removals out of the water basin. Also, each governor of the Great Lakes states has a congressionally affirmed power to veto any new diversions.

• (1550)

Also, in the years ahead the Boundary Waters Treaty will remain a critical instrument in protecting Canada's rights over the Great Lakes and over other boundary and transboundary waters.

[English]

Honourable senators, by adopting Bill C-6, the Senate will set down in law an unambiguous prohibition on bulk water removal in waters under federal jurisdiction, and especially in the Great Lakes. This is a forward-looking action that places the highest priority on ensuring the security of Canada's freshwater resources. It affirms an approach that is comprehensive, environmentally sound, respectful of constitutional responsibilities of the treaty and consistent with Canada's international trade obligations. Honourable senators, I seek your enthusiastic support for the adoption of Bill C-6, after due process of course, in the best of senatorial tradition.

[Translation]

Hon. Pierre Claude Nolin: Honourable senators, this is an interesting bill. As Senator Corbin has said, it refers to one of our oldest treaties, if not the oldest, with the U.S. As Senator Corbin has so clearly explained, the industrial future of our two countries is at stake, as well as the survival of the Great Lakes basin, which is so important.

This bill calls upon us to create three major prohibitions, set out in clauses 11.(1), 12.(1) and 13.(1). I have no problem with these three. It is a matter of principle. The bill mentions exceptions to these prohibitions that will be determined by regulation. This is where I have a problem. Why not include in the bill the exemptions to the prohibitions we are being asked to approve?

Senator Corbin: Honourable senators, I am not sure I am in a position to reply to this most interesting question today. I can assure you that, at the committee stage of the bill, experts from the various departments involved will be appearing and will certainly provide the answers.

Senator Nolin: Honourable senators, looking at the regulatory power allocated to the Minister of Foreign Affairs, particularly by subsection 21.(1)(d), which empowers him to create these exemptions, he is also in a way given the power, in a sense, to be "in conflict of interest." In addition to creating exceptions, if one compares this power with the ministerial powers conferred upon him by clause 19, the minister will determine the law that will govern what he does. How can it be that Parliament is not called upon to decide on these prohibitions? We are certainly authorized to create exemptions. The minister should, at the very least, have his power controlled. It is Parliament's role to do so. The minister, through his regulatory power, is the one who will determine the terms of the law. That is what the government is asking us to authorize in clause 21.(1)(b):

The Governor in Council may, on the recommendation of the Minister, make regulations

(b) defining, for the purpose of this Act, any word or expression used in sections 11 to 26 that is not defined in this Act;

I understand that Senator Corbin cannot respond to this, but it will be interesting to obtain some answers.

Senator Corbin: Honourable senators, I truly understand Senator Nolin's concerns. The powers given to the minister are not, strictly speaking, absolute powers. In making any decision, the minister will be bound by the existing legislation. He will have to take into account the outcome of a public consultation process. He will have to refer certain issues to the International Joint Commission for review and evaluation. He will therefore have to operate within a framework that will have the effect of taking away any absolute discretionary power. I once was the Parliamentary Secretary to the Minister of the Environment and Fisheries. Generally speaking, in this type of situation, the ministers whom I have known in the federal government always proceeded in this fashion and with great caution. They made a point of consulting all the stakeholders.

Of course, you are right. I already saw draft regulations. The provinces were consulted extensively regarding the content of these regulations. We should be able to take a look at these regulations when the committee will review this legislation.

I was supposed to introduce this bill two years ago. It was postponed for all sorts of reasons, including the fact that the consultations with the provinces were not completed. We worked diligently, but also in a spirit of cooperation. What we have before us today reflects a will to work together in the best interests of the federal government and of the provinces, while taking into account our location on the continent and the Great Lakes basin.

[English]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Does Senator Corbin have any information as to the state of readiness of regulations that would be made pursuant to clause 21 of the bill? In the honourable senator's briefing, was there any indication that the regulations are drafted or almost drafted so that they could be presented to the committee?

I ask the question of the honourable senator because the operative paragraph, the proposed subsection 11(1), deals with the issue of building dams along rivers, et cetera, but then the proposed subsection (2) states:

Subsection (1) does not apply in respect of the ordinary use of waters for domestic or sanitary purposes, or the exceptions specified in the regulations.

We need to know what these regulations are, because a regulation could certainly eliminate the effectiveness of the substantive provision of the proposed section 11.

Was Senator Corbin given information relating to the regulations? Are they well along in terms of drafting? Will the committee have an opportunity to see the draft regulations?

Senator Corbin: I thank the honourable senator for his question. Indeed, I looked over my shoulder so see if there were officials in the gallery who might give me the nod one way or the other. I have seen the draft regulations. My understanding is that there have been wide-spread consultations with the provinces in respect of the content of those regulations.

May I ask the honourable senator to repeat the second part of his question?

Senator Kinsella: Will the committee see the draft regulations?

Senator Corbin: Undoubtedly, they would see them. I do not anticipate any objections to committee members acquainting themselves with the draft regulations. I am not suggesting that they have been firmed up, but I have seen a project on the regulations. As honourable senators know, they will not come into effect until we adopt the bill. I am sure that whoever will appear on behalf of the government will be pleased to acquaint honourable senators with the regulations. Indeed, I will give the assurance that I will work towards that end.

• (1600)

Senator Kinsella: I thank the honourable senator for that. I am pleased to see the explicit provision that Aboriginal and treaty rights in section 35 of the Constitution Act that relate to water are not affected in any way by this bill.

On motion of Senator Kinsella, for Senator Carney, debate adjourned.

CARRIAGE BY AIR ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Fitzpatrick, seconded by the Honourable Senator Bacon, for the second reading of Bill S-33, to amend the Carriage by Air Act.

Hon. Donald H. Oliver: Honourable senators, it gives me great pleasure to rise today to speak for the opposition on second reading debate of Bill S-33.

I thank Senator Fitzpatrick for his speech on this bill at second reading. He very carefully set out the main features of the bill, which I will not repeat today. He also dealt with the timeliness of this initiative given the horrendous events of September 11 and the role that this legislation will play for the families of loved ones killed in air disasters to achieve finality to the claims process in an efficient and effective manner.

Basically, Bill S-33 changes the way in which legal actions may be brought as a result of airline disasters through the adoption of the 1999 Montreal Convention. The Montreal Convention was developed on May 28, 1999 at the triennial general assembly of

the International Civil Aviation Organization which, as we know, is a UN body to which Canada is the permanent host. The convention was developed to consolidate and modernize the global regime of limited liability for international air travel currently in force through the 1929 Warsaw Convention and its amending instruments.

While the Montreal Convention maintains uniformity of approach among all nations as per the Warsaw Convention, it establishes a global regime of unlimited instead of limited air carrier liability for international passengers. As well, it will permit them to choose their own local system of law when making claims.

This could have been of some help, honourable senators, had it been in place at the time of the Swissair crash off the coast of Nova Scotia. Under this protocol, it would have been possible to bring lawsuits in Nova Scotia rather than have them spread in many jurisdictions throughout the world.

I believe it is important to note the exact system introduced under this protocol, which is the subject of Bill S-33. It introduces a two-tiered system. The first tier presumes the carrier is strictly liable for claims of up to U.S. \$135,000 irrespective of fault — a no-fault regime. The second tier permits carriers to avail themselves of certain defences for claims beyond this limit, but there is no limit of liability. Carriers must maintain adequate insurance to cover their potential liability.

In order to bring this new regime to the attention of travellers, the ticket stock will note these new rules relating to the liability of air carriers. The tickets will show the changes contained in the Montreal Protocol. At the present time, airline tickets set out the legal minimum regarding carrier liability, which is less than the current Canadian industry practice.

The Montreal Convention has so far been signed, as I understand it, by 69 states, including all of Canada's largest trading and aviation partners. Thirty states must approve, accept, ratify or accede to the Montreal Convention before it can have the force and effect of law. To date, some 11 of 67 states have taken such actions.

I look forward to hearing from the Minister of Transport, Air Canada, as well as other airlines, the Air Transport Association of Canada and the IATA in committee when we begin the study of this bill.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

Hon. Senators: Agreed.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

On motion of Senator Fitzpatrick, bill referred to the Standing Senate Committee on Transport and Communications.

[Translation]

OFFICIAL LANGUAGES ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Gauthier, seconded by the Honourable Senator Lapointe, for the second reading of Bill S-32, An Act to amend the Official Languages Act (fostering of English and French).—(*Honourable Senator Comeau*).

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, Honourable Senator Comeau wished to speak to this bill, but he has been detained elsewhere. If another senator wishes to speak, he may do so.

Hon. Gérard-A. Beaudoin: Honourable senators, I had intended to speak after Senator Comeau, but since we are in agreement, I am prepared to give my speech right away.

In my view, the Official Languages Act is a special, and very important piece of legislation. It ensures official bilingualism at the federal level within the Canadian federation. As I see it, the intention of the legislator, i.e. the Parliament of Canada, in promulgating Part VII of the act, and more particularly section 41, was to make this section executory. In the Official Languages Committee, I have always expressed the opinion that section 41 is executory and not purely declaratory.

The legal experts do not all agree. The issue may have to be resolved by the courts. However, I think that this section is executory.

In his bill, Senator Jean-Robert Gauthier suggests an amendment to section 41 which would emphasize its executory nature. It is with pleasure that I support this amendment.

[English]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, since I expect that Senator Comeau may wish to participate in this debate, I would suggest that we suspend the debate and return to it later. Therefore, I would move the adjournment of the debate and, should Senator Comeau arrive, I will ask for leave to revert to it.

On motion of Senator Kinsella, debate adjourned.

[Translation]

FEDERAL NOMINATIONS BILL

SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Stratton, seconded by the Honourable Senator Cohen, for the second reading of Bill S-20, An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions.—(*Honourable Senator Robichaud, P.C.*).

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, as you are aware, Bill S-20, to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions is of concern to some senators. This issue has often been raised. The topic warrants further debate.

I should like to inform the honourable senators that I will have more detailed comments on certain clauses in the bill. I will share them with you soon. I propose therefore that the order stand until the next meeting of the Senate.

Order stands.

[English]

BUSINESS OF THE SENATE

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I was hoping that unanimous consent might be given by the house to return to Order No. 2, standing in my name. If leave is granted, I intend to say but one word on it.

The Hon. the Speaker pro tempore: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Senator Kinsella: A more substantive comment will be made on this bill by the Honourable Senator Comeau.

[Translation]

OFFICIAL LANGUAGES ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Gauthier, seconded by the Honourable Senator Lapointe, for the second reading of Bill S-32, An Act to amend the Official Languages Act (fostering of English and French).—(*Honourable Senator Comeau*).

Hon. Gerald J. Comeau: Honourable senators, I thank the Leader of the Opposition for giving me an opportunity to make a few comments on a very important matter.

Honourable senators, it is with pleasure that I rise to speak today to Bill S-32, introduced by Senator Gauthier. For those who do not know Senator Gauthier, I assure you his devotion, sincerity, courage and tenacity in promoting the interests of minority language communities in Canada are legendary. We can always have confidence in the wise and thoughtful interventions of Senator Gauthier. Those who have followed his career know his actions and support for the cause well.

These are my reasons for supporting the principle and objective of his bill, the purpose of which is to make mandatory section 41 of the Official Languages Act, which was the objective of the act originally. The bill will give us the opportunity to deliberate, at the committee stage, the challenges and problems faced by Canada's linguistic minorities.

As for those who believe everything is well with this country's linguistic minorities, I would invite you to visit these small communities. Come and see the quality and quantity of bilingual services we receive in our hospitals. Just try to get service in French on the privatized ferries! Just see what is carried on our cable television! Just listen to our community radio stations for a while! Every weekend that I go back to Nova Scotia, I see signs of assimilation.

It is demoralizing to see how isolated our little Acadian communities are becoming, how they become a bit more anglicized with each passing generation. The young people in our Acadian communities are abandoning French because we have abandoned them.

How can a parent encourage his or her child to speak French, when English is the language of the services provided in the community?

Just come and see the results of a minimal interpretation of Section 41 of the Official Languages Act.

The situation is similar in P.E.I. and in Newfoundland. I must admit I would not be surprised to find it was the same in western Canadian communities. It is high time something was done.

Since 1993, we have noted a lessening of interest with the arrival of the Bloc and the Reform in the House of Commons.

The Bloc Québécois became the official opposition in the House of Commons. This group of separatists seeks to demonstrate that Canada is not viable and that official language policies and policies for the protection of minorities are not working. This group makes fun of our communities, calling them "dead ducks," or "warm corpses," and poof, the francophones outside Quebec are finished. This is a group which describes our country in terms of an English Canada and a French Quebec, in order to spread the impression that only Quebec is francophone.

Since 1993, the separatists have been supported by the Reform Party, a doctrinaire party of anti-French malcontents. The authorities who could change this regrettable situation seem not to understand that assimilation can one day end with the dream of the Reform and the separatists, namely a French Canada in Quebec and an English Canada elsewhere.

Our desperate situation must not lead us to trust the Bloc and Reform to defend the cause of the linguistic communities.

The Conservatives and the New Democrats in the House of Commons have few human and other resources to effectively work to promote minorities.

Such is the reality since 1993. Nothing has changed since. The two regional parties are still the two major opposition parties.

The government has been enjoying a holiday since 1993. Communities are being neglected. Minister Dion is now telling us that he must again review the issue.

At the same time, we in the Senate are expressing our support for the protection of minorities. In one of our publications, we insist that this is one of the main roles of the Senate. And we think we are fulfilling our commitment because we take part in the joint

official languages committee where, all too often, we get bogged down by procedural issues, at the expense of substantive debates. I took part in that committee and I was even its co-chair. After a while, I concluded that the committee could not help those communities that are dear to me.

Some of us tried to fill this gap by setting up the Louis J. Robichaud parliamentary group. Our group was made up of members of Parliament and senators representing minority francophone communities. We took money from our budgets and we hired D'Iberville Fortier as a consultant to our group.

We often organized meetings with groups of community spokespersons. We also met ministers to discuss critical issues.

Unfortunately, the group has been inactive for some time, certainly not because the need no longer exists but, rather, because of a lack of interest on the part of members of Parliament and because of Senator Gauthier's health, the appointment of Roméo LeBlanc to the position of Governor General, the ministerial appointment of Mr. Duhamel, the death of Senators Molgat and Simard, and other circumstances. The committee was not able to carry on its work and has since been inactive.

The creation of this type of ad hoc group is useful, but it is not the ideal solution. The Senate has a responsibility to provide a forum officially mandated to meet the urgent needs of our minority communities.

Right now, the talent of our senators in promoting the cause of official languages is not fully used. Our role as protectors of minority rights has diminished. When the Senate Standing Committee on Rules, Procedures and the Rights of Parliament reviewed the issue of official languages in the Senate, I asked to be invited to present my observations. The chair pledged to do so. However, I later found out that the committee had chosen to invite senators from Quebec only. Such is the attention given to minorities.

The result of this indifference is that the communities are turning to unusual means to promote their cause.

• (1620)

I should like to tell you about something that happened last year. The Société nationale de l'Acadie, the historic mouthpiece for Acadia, organized a visit to Parliament Hill to raise awareness among parliamentarians. The Société decided to meet in private with the Liberal caucus, but did not extend the same courtesy to the other caucuses. Even the most militant Liberals must realize how harmful this might be to the Société nationale de l'Acadie and to non-Liberal Acadians.

Those speaking for our communities should not feel they have to go to the Liberal Party to advance their causes. Another concern has to do with minority French-language newspapers and federal government advertisements.

Most of Canada's minority French-language newspapers opt for the cooperative or community formula. The 24 newspapers depend on the revenue generated by national advertising and, 32 of the 51 federal departments never advertise in French outside Quebec.

For years now, these newspapers have been struggling with their meagre financial resources to get the delinquent departments to respect the Official Languages Act.

Réseau-Sélect, a Quebec agency, tried to buy out the Opscom cooperative, which handles advertising in these newspapers, in order to become the only French-language advertising agency in Canada. This scenario raised concerns that the small newspapers might disappear in the long term, because Réseau-Sélect has no mandate vis-à-vis minority French-language communities. It is therefore clear that the government must take another look at its priorities.

For example, the Games of La Francophonie did not represent francophones. Two athletes represented the Maritimes and, on the storytelling stage, a Polish gentleman was holding a text which had been translated into French thirty minutes before the event. And nobody was representing Nova Scotia.

The Rendez-vous de la Francophonie project mainly benefited the pet agency of the Department of Canadian Heritage, a consultant who worked for many years at the National Capital Commission and who left with his list of contacts. He is now enjoying the generosity of the Francophonie via the Department of Canadian Heritage.

In short, the objective of strengthening Part VII of the Official Languages Act deserves the support of this chamber. As Senator Gauthier says, we must give some teeth to section 41 of the act in order to provide Canada's minority communities with the protection due them.

This is a matter of national unity and the minority communities deserve the support of the Senate.

On motion of Senator Poulin, debate adjourned.

[English]

STUDY ON EMERGING DEVELOPMENTS IN RUSSIA AND UKRAINE

BUDGET—REPORT OF FOREIGN AFFAIRS
COMMITTEE WITHDRAWN

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on Foreign Affairs (budget—release of additional funds) presented in the Senate on September 25, 2001.—(Honourable Senator Stollery).

Hon Peter A. Stollery: Honourable senators, I ask to withdraw this report of the the Standing Senate Committee on Foreign Affairs. Basically, it was a budgetary matter. As a result of a change in scheduling of the committee, we do not need the additional funds that we had asked for in this report. Therefore, I ask that the report be withdrawn from the Order Paper.

The Hon. the Speaker pro tempore: Honourable senators, is leave granted to discharge the report of the committee?

Hon. Senators: Agreed.

Motion agreed to and report withdrawn.

[Senator Comeau]

[Translation]

NATIONAL NETWORK OF FRANCOPHONE TELEVISION

INQUIRY WITHDRAWN

Hon. Jean-Robert Gauthier, having given notice on May 30, 2001:

That he will call the attention of the Senate to the needs of a national television network of francophone television: le réseau des Francophonies canadiennes.

He said: Honourable senators, you will notice that on the Order Paper, Notice of Inquiry No. 21 has been adjourned 14 times. Today is the fifteenth time, and if no one wishes to speak to it, the item will be removed from the Notice Paper.

This notice of inquiry repeats a motion I tabled in June when I asked that the Standing Senate Committee on Transport and Communications be authorized to examine and report on measures to be taken to encourage and promote the delivery of and access to the broadest possible range of French-language broadcasting services in francophone minority communities in Canada.

The motion was in response to a report by the CRTC stating that it had consulted francophone communities across Canada and had noted lacks, needs and community requests concerning the radio and television sector.

The Acadians have been very active in this matter. They suggested a «Réseau national des Francophonies» uniting francophones across the country through a national television network. I thought it was a good idea and submitted it as a motion.

The aim of the inquiry is the same as that of the motion, which I explained earlier. This is why I would like the support of the Senate to withdraw Inquiry No. 21 and proceed with Bill S-32, which is at second reading. I have already spoken to the bill, and the debate was subsequently adjourned. I wish therefore to withdraw my inquiry.

The Hon. the Speaker pro tempore: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Inquiry withdrawn.

[English]

NATIONAL DEFENCE

MISSILE DEFENCE SYSTEM AND NEED FOR INTERNATIONAL SECURITY—INQUIRY

Hon. Douglas Roche rose pursuant to notice of September 20, 2001:

That he will call the attention of the Senate to the urgent need to consider the implications of a missile defence system for Canada's policies on keeping space free of all weapons and, in this context, to promote a cooperative and forward-minded approach to international security in the light of the terrorist attacks of September 11, 2001.

• (1630)

He said: Honourable senators, during the worst days of World War II, the Allied leaders met to plan ways to lift the world away from the scourge of war. The result was the birth of the United Nations now the recipient, with Kofi Annan, of the Nobel Peace Prize to provide a strengthened base for peace, development, equity and justice.

That was a turning point for the world which saw, for the first time, that the common management of problems was a better route to peace than reliance on militarism. The world is now at another turning point. Aggressors have found a new way to attack humanity, not on the battlefield far away but in our offices and institutions at home. We must find ways to end forever this aggression. Shocked as we are by the horrific attacks on the World Trade Center and the Pentagon on September 11, we must, just as was done in the midst of World War II, lift ourselves up and recognize that something, other than bombing and the methods of warfare, is necessary to build human security.

We must use this terrible period we are passing through to think and act beyond the immediate crisis to find an enduring solution, not just one that momentarily gives us the satisfaction of responding in kind to an attack. It is not good enough for the Government of Canada to send our Armed Forces, ships and planes into military action in the perceived battle zone surrounding Afghanistan. It is not good enough for the government to introduce antiterrorism legislation and spend an extra \$250 million in an effort to make Canadians safer from the ravages of terrorists. It is not good enough to rush through a bill that tightens regulations dealing with immigrants and refugees in the hope that this will make our borders secure against the incursion of unwanted people.

What is most needed today, at this moment of trauma for the world, is an all-out attack on the causes of terrorism. It is not just the criminals who perpetrated these heinous acts who must be caught and brought to justice. It is the dehumanizing economic and social deprivation that terrorists exploit that must be stamped out.

Let it not be said that I am insensitive to the victims, their families and friends who suffered the horrors of September 11. I went to New York and saw with my own eyes the tangled wreckage of the twin towers and the grieving of the people who stood silently watching the firemen and policemen trying to find survivors.

Let it not be said that I am falling into what is known as "moral equivalence" in which the actions of the terrorists are explained away by the injustices of the world. The September 11 terrorists are criminals, guilty of attacks against humanity, and they do not deserve the comforting of those who seek to understand them.

Let it not be said that I do not understand that it is only the power of militarism that can make us safe. I understand all too well that the instant recourse to warfare in the name of curing aggression has in the past and will in the future only lead to more violence and more suffering.

As the Afghan refugees in countless numbers are now experiencing, war exacts a terrible toll on the most vulnerable. I oppose the bombing of Afghanistan, just as I opposed the bombing of Kosovo, and just as I opposed the bombing of Iraq. In simple practical terms, it does not work. Neither Slobodan Milosevic nor Saddam Hussein were flushed out by bombing. In moral terms, bombing inflicts disproportionate damage on the society you are trying to save. Civilians are being killed, and this fact has been minimized.

While opposing the bombing, I acknowledge that military action mounted with the full force of the United Nations Security Council acting under the precepts of international law can legitimately be a proper response to the challenge posed by the terrorists. My point here is that even properly constituted military action cannot by itself remove the threat of future terrorist aggression. We must go deeper than this, and Canada has the credentials to do so.

Terrorism, the epitome of hate, feeds on the hatreds and resentments that have been built up in the rest of the world against western society. We do not like to hear this. CNN does not broadcast it. The political processes do not want to deal with it. Nonetheless, more conflict is coming because people who are downtrodden are rising up against the West they perceive as rich, arrogant and powerful. Anyone who has travelled widely, as I have, through the villages, teeming cities, refugee camps and slums of Asia, the Middle East, Africa and Latin America, knows these words to be true.

It is time for Canada to listen to a high-level panel of experts headed by former President Zedillo of Mexico who issued a UN report on financing for development in June 2001. The panel said that half the world's people are still living in abject poverty with 80 per cent of the global population living on less than 20 per cent of the global income. Too many people in too many countries lack the freedom to take advantage of the new opportunities of modern technology and are consequently left on the sidelines of the globalization process.

People lack freedom when they lack food, education, training, health, basic human and political rights, security and employment opportunities. Increasing polarization between the haves and have-nots has become a feature of our world, the panel said. Then there is this sobering warning which I quote directly from the report:

Reversing this shameful trend is the pre-eminent moral and humanitarian challenge of our age. For people in the rich world, elementary self-interest is also at stake. In the global village, someone else's poverty very soon becomes one's own problem: of lack of markets for one's products, illegal immigration, pollution, contagious disease, insecurity, fanaticism, terrorism.

• (16:40)

Honourable senators, we fool ourselves if we rely only on militarism to curb terrorists and do not take a gigantic step to "reverse this shameful trend." The high-level panel issued a list of recommendations, ranging from making the World Trade Organization more equitable to recommitment of donor countries to the international target of 0.7 per cent of GNP for official development assistance, to an international tax organization to benefit the development process.

It is not only individual measures, important as they are, that are called for in the present crisis; it is a whole new strategy for the survival of humanity. This is what UN Secretary-General Kofi Annan is calling for. Commenting on the anti-terrorism resolutions already adopted by the Security Council, the Secretary-General said:

To defeat terrorism, we need a sustained effort and a broad strategy to unite all nations, and address all aspects of the scourge we face. The cause must be pursued by all the States of the world, working together and using many different means — including political, legal, diplomatic and financial means.

How much better for peace and security in the world it would be for governments to put their full weight behind such an effort.

Honourable senators, if we are worried about developing proper relations with Islam, if we are worried about how to cure the hate and racism that feeds evil acts, if we are worried about our own safety inside the borders of Canada, then let us act today to raise up society and its political discourse to project out into the international community the values that have made Canada a great country. These are the values that the Catholic Bishops of Canada recently called for in promoting interfaith dialogue in a common reach for international peace and justice for all. The essence of the great move forward for humanity that I am espousing is to move beyond militarism as the response to conflict.

There is no more pressing matter on the public agenda than preventing the escalation of present weaponry into even new and more dangerous spheres. That is why Secretary-General Annan urged, in the wake of September 11, what he called a "redoubling" of efforts to strengthen key treaties banning weapons of mass destruction to ensure that nuclear materials do not fall into the hands of terrorists. We must now work to head off nuclear terrorism.

A cooperative and forward-minded approach to international security, which the inquiry I am launching calls for, must also immediately address the escalating problem of national missile defence. Though the nature of the attacks of September 11 shows the futility of relying on a missile defence system, the opposite is now happening. The clamour of the military industrial complex in the United States to speed up the funding and testing for a missile

defence system has grown. Canada, which has taken a low profile on the issue in the hope that somehow the issue will go away, will be challenged soon on whether we support and will be involved in this U.S. effort.

This presents a considerable dilemma for Canada, honourable senators. The U.S. intends the national missile defence system to be directly linked to the weaponization of space. Of this, there can be no doubt. On July 17, 2001, the U.S. announced that the research and development program for missile defence includes space-based lasers and interceptors required to protect the missile defence systems. U.S. defence policy, which can be seen on the Internet, makes a fundamental assumption that space will be weaponized and that the U.S. intends to be the leader by obtaining what is called "full-spectrum dominance" of land, sea, air and space. So determined is the U.S. to pursue the missile defence program that it is willing to jettison or severely modify the anti-ballistic missile treaty, which forbids such a system.

The newly invigorated plan to push ahead with missile defence and the weaponization of space threatens over 30 years of international legal norms designed to prevent such a scenario. The 1967 Outer Space Treaty, ratified by over 90 countries, including Canada and the United States, is one of those norms. For this same 30-year period, it has been one of Canada's stalwart policies to oppose the weaponization of space.

Canada has worked hard in the UN Conference on Disarmament for a convention on the non-weaponization of outer space and has tabled two proposals to negotiate a convention to keep weapons out of space. Foreign Minister John Manley stated that:

Canada would be very happy to launch an initiative to see an international convention preventing the weaponization of space.

However, NMD will undermine such efforts. Canada knows this. For Canada, knowing what it does about NMD's effects on the weaponization of space, to participate in NMD will directly counter three decades of work to prevent the weaponization of space. We will be turning our back on our own policy.

It is not unilateral defence by any one country that is the answer to the threats of our time. Rather, a cooperative and forward-minded approach to security for all is the only way to international security.

Honourable senators, it is now commonly said that September 11 has changed the world. I would now ask, has it changed our thinking? Can we now finally rise up and make of God's planet the peaceful, just home for humanity that so many long for?

Hon. Jim Tunney: Honourable senators, I have had some serious concerns about this matter under discussion for many days now. I have been thinking about the military action and what might be either a companion effort or an alternative. In these days of anguish and torment over the horrible events around the world, this country, this community, needs to consider some alternatives.

In Canada, is it not also the time when we should be moving to contribute to the needs of the unfortunate people of Afghanistan? We should be doing what Canada does best: providing assistance in civil matters, education, food production and advice on infrastructure rebuilding. For the people of Afghanistan, where there is rampant poverty and illiteracy is approximately 90 per cent, we must take some action.

Honourable senators, I have worked in agriculture in this part of the world. Small efforts can mean much in improving the lives of the rural people, who I know best, to whom food production is one of the most critical matters after housing.

• (1650)

It will cost less to help rebuild Afghanistan than it has cost to demolish it. This matter will need to be addressed after we settle matters over there and the terrorists have been dealt with. However, we should now be thinking about the needs of the Afghan people and starting to formulate our plan to help with the rebuilding process. Canada is so well recognized in so many parts of the world that we may be accepted in ways that other countries might not.

I urge all honourable senators to think about this. We should try to persuade our government to consider all of the matters that would improve the situation and perhaps in a short number of years we will see the Afghan people rise from the impoverished conditions with which they have lived for so long.

The Hon. the Speaker *pro tempore*: Honourable senators, as no other senator wishes to participate in the debate, this inquiry is considered debated.

FOREIGN AFFAIRS

MOTION TO AUTHORIZE COMMITTEE TO MEET *IN CAMERA*—DEBATE ADJOURNED

Hon. Peter A. Stollery, pursuant to notice of October 4, 2001, moved:

That, notwithstanding rule 92(1), the Standing Senate Committee on Foreign Affairs be empowered to hold occasional meetings *in camera* for the purpose of hearing witnesses and gathering specialized or sensitive information in relation to its order of reference of March 1, 2001, to examine such issues as may arise from time to time relating to foreign relations generally.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, this is a highly unusual motion. I have not seen the likes of it before and an explanation would be in order.

Senator Stollery: Honourable senators, the Standing Senate Committee on Foreign Affairs has an order of reference which allows us to examine such issues as may arise from time to time relating to foreign relations generally.

As Chairman of the Standing Senate Committee on Foreign Affairs, I was unaware, as were other committee members, that if we wanted to have an *in camera* meeting on a security matter, with witnesses, in particular, we required the agreement of the Senate. I make these remarks without having an agenda for the meetings which are the basis of this motion. This information came out of former Senator Kelly's committee on intelligence where we were told that, if anyone wished to talk to us about security matters, the meeting must be held *in camera* or we would make no progress. In order to hold an *in camera* meeting with witnesses, we require the agreement of the Senate. That is the only reason for this motion. The committee does not have a particular agenda in mind, but we think that it would be useful for the committee to have that agreement in the event that it is necessary.

Senator Lynch-Staunton: As that is not very convincing, I move the adjournment of the debate.

On motion of Senator Lynch-Staunton, debate adjourned.

The Senate adjourned until Wednesday, October 17, 2001, at 1:30 p.m.

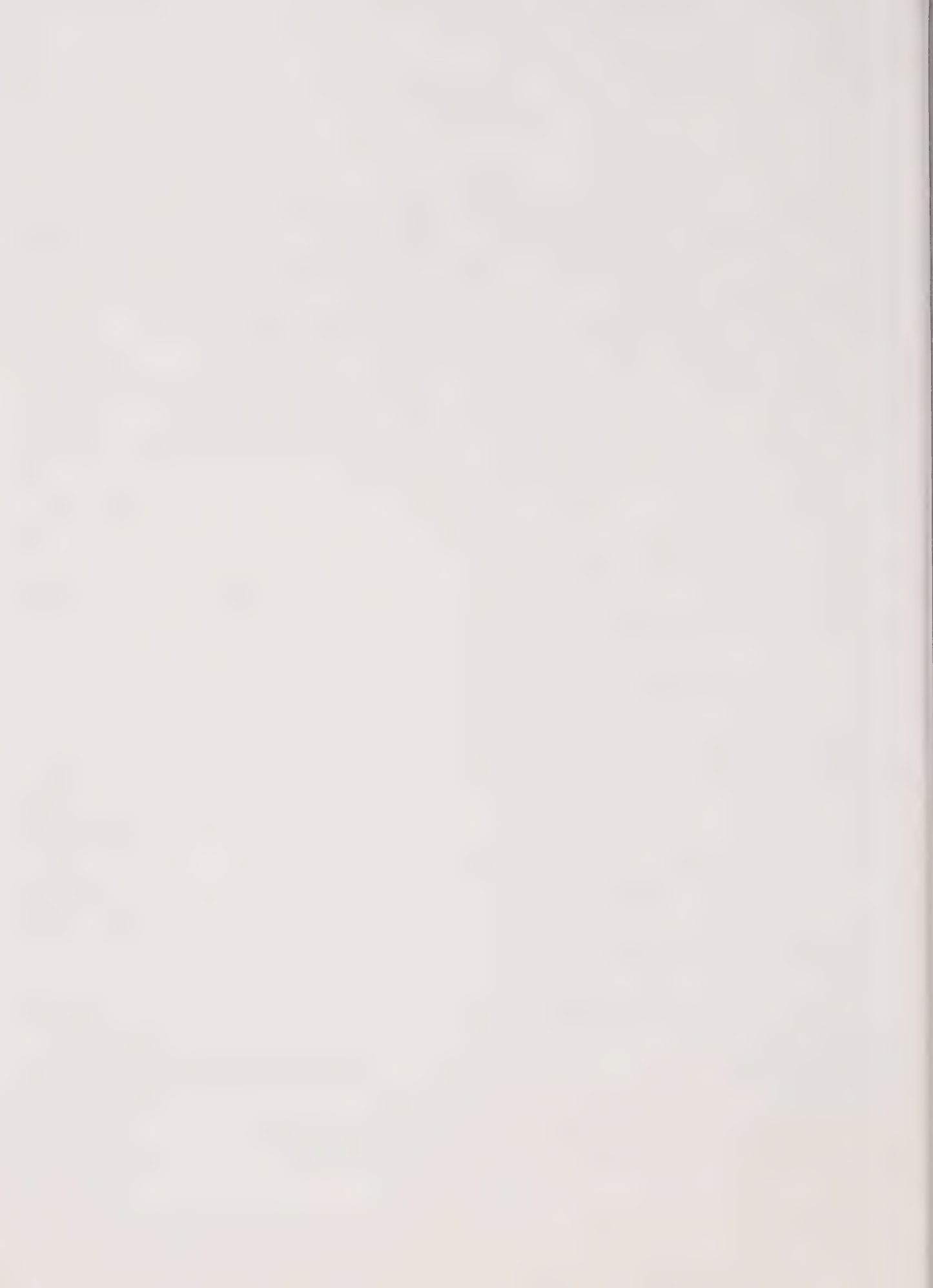
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• VOLUME 139

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OFFICIAL REPORT
(HANSARD)

Wednesday, October 17, 2001

THE HONOURABLE ROSE-MARIE LOSIER-COOL
SPEAKER *PRO TEMPORE*



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THE SENATE

Wednesday, October 17, 2001

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the Chair. [Translation]

Prayers.

SENATORS' STATEMENTS

THE LATE BRIGADIER-GENERAL WILLIAM DENIS WHITAKER, O.C.

Hon. Francis William Mahovlich: Honourable senators, Brigadier-General William Denis Whitaker, one of Canada's most highly decorated commanders of World War II, passed away peacefully on May 30, 2001, in Oakville, Ontario. General Whitaker was awarded the Distinguished Service Order at the rank of captain for his achievement in the Battle of Dieppe in 1942. He was the only one of the 100 officers who landed on the beach to fight his way into town and escape unwounded.

Whitaker commanded the Royal Hamilton Light Infantry in 1944 and 1945 throughout most of the fighting in northwest Europe. In April 1995, with the approach of the fiftieth anniversary of VE Day, the French government awarded General Whitaker the prestigious Order of the Legion of Honour for his role in the liberation of France.

In addition to being a war hero, Whitaker also excelled in business, where he advanced from executive positions in radio advertising to then become the CEO of the O'Keefe Brewery Company. He was also the president of Major Market Advertising and a financial consultant with Nesbitt Burns. He was named Member of the Order of Canada in 1989, was inducted into Hamilton's Gallery of Distinction in 1995 and was one of the first RMC graduates to be awarded an honorary doctorate in military science. He also co-authored four books on Canada's war history with his wife of 28 years, Shelagh Whitaker.

Denis' sports career was equally illustrious, beginning with captaincy of the RMC hockey and football teams. He led the Hamilton Tigers in 1938 and was named all-eastern quarterback. He was named to the Canadian Forces Sports Honour Roll and was a national senior squash champion. He chaired the Canadian Equestrian Team for 20 years, and under his guidance the team won two Olympics, 15 Pan-American and two World Championship gold medals. He was a founder and member of the Olympic Trust of Canada. In 1990, Denis and I were inducted into Canada's Sports Hall of Fame, at which time I was privileged to meet this fine Canadian gentleman.

Honourable senators, Denis Whitaker was a Renaissance man, as modest as he was accomplished. "He was not an officer, he was a gentleman," said one of his close friends. To Canadians, he was both an officer and a gentleman.

ADVANTAGES OF CHRYSOTILE ASBESTOS

Hon. Raymond C. Setlakwe: Honourable senators, those of us who have reached the age of wisdom have learned in various ways just how strangely powerful myths can be.

That power is all the more fascinating because a myth is, by definition, nothing but a pure invention, something along the lines of a fable, a representation of facts that have been deformed or magnified by the imagination. We are told that myths play a major role in individual or collective behaviour and perceptions.

Honourable senators, it has been proven that the bad reputation of chrysotile asbestos is indeed a myth, a pure invention, a deformation of reality. This is a product of a major Canadian industry, one that used to be prosperous and will be again, one that sustained the economy of a region of Quebec I know well — it being my region — and one whose potential export value justifies another vigorous effort of development.

Proof of this has been provided here in the Senate by Senator Morin, when he reviewed the convincing facts that demonstrate a marked difference in toxicity between the amphibole asbestos used in the past and the chrysotile asbestos used today.

This proof has been clearly established on the industrial level by numerous specialists who consider chrysotile asbestos more effective, and safer, than alternative products, which certain governments seem to be promoting merely as a rather strange form of protectionism.

This proof has also been recognized by the highest court in Brazil as well as by its Chamber of Deputies. In a recent decision relating to the banning of asbestos by three Brazilian states, these bodies came out in favour of maintaining the controlled use of asbestos in their country.

• (1340)

Therefore, the myth that asbestos is toxic is gradually being dispelled, thanks in particular to the efforts of our government and to the Prime Minister's initiatives both here in Canada and abroad.

This myth is being debunked thanks to the sustained efforts of the Asbestos Institute, and to the confidence and determination of the people in the areas of Thetford and Asbestos, who depend on a safe and viable industry for their economic prosperity.

It is thanks to their tenacity, their persuasiveness and their good work that the Minister of Public Works and Government Services announced in the other place the development of a policy for the safe use of asbestos in government buildings.

So I am full of hope, hope that is shared by workers and businesses that depend on the industry, that this policy will contribute in large part to re-establishing chrysotile asbestos, both here in Canada and in countries to which we export, as a safe product, in terms of health, and as superior to other substitutes, in terms of the industry.

[English]

YWCA CANADA WEEK WITHOUT VIOLENCE

Hon. Vivienne Poy: Honourable senators, every year during the Week Without Violence, the YWCA organizes events across the country to raise awareness of the effects of violence on individuals, families and society. People take part in these activities to show others the impact that violence has had on their lives and how the effects are felt from generation to generation. The YWCA pays particular attention to the education of children and young people in the hope that violence can be stopped before it starts. During this week, youths write stories in schools, services are held in churches and art is displayed as a protest against acts of violence.

In the wake of the events of September 11, this week has taken on new significance for many Canadians. The tragedy in New York City has left an indelible mark on people everywhere. We are seeing the emergence of acts of violence against those of Middle Eastern origin in Canada, in the United States and around the world. As Canadians, we have always prided ourselves on our tolerance and respect for others. We should remind ourselves that the criminal acts of a few terrorists are no excuse for racial intolerance in our country.

I congratulate the Prime Minister in his efforts to reach out to all groups of society during this difficult time. His visit to a mosque in Ottawa and his many statements on this issue will help to curb the voices of intolerance. Nevertheless, I would ask that we listen to the words of Martin Luther King, Jr., who said that hate will only lead to more hate and violence to more violence.

In this Week without Violence, I ask all honourable senators to join me in promoting tolerance and peace for the sake of the human race.

[Translation]

ROUTINE PROCEEDINGS

ADJOURNMENT

The Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Thursday, October 18, 2001, at 1:30 p.m.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

[English]

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT

Hon. A. Raynell Andreychuk: Honourable senators, I give notice that at the next sitting of the Senate, I shall move:

That the date for the presentation by the Standing Senate Committee on Human Rights of the final report on its study into issues relating to human rights and, *inter alia*, the machinery of government dealing with Canada's international and national human rights obligations, which was authorized by the Senate on May 10, 2001, be extended to Friday, December 21, 2001; and

That the Committee be permitted, notwithstanding the usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Chamber.

ACCESS TO CENSUS INFORMATION

PRESENTATION OF PETITION

Hon. Lorna Milne: Honourable senators, once again I rise to present 422 signatures from Canadians in the provinces of British Columbia, Alberta, Saskatchewan, Ontario, Quebec, New Brunswick, and Nova Scotia who are researching their ancestry, as well as signatures from 245 people in the United States and two from Switzerland who are researching their Canadian roots. A total of 669 people are petitioning the following:

Your petitioners call upon Parliament to take whatever steps necessary to retroactively amend Confidentiality-Privacy clauses of Statistics Acts since 1906, to allow release to the Public after a reasonable period of time, of Post 1901 Census reports starting with the 1906 Census.

These signatures are in addition to the 11,710 that I have presented in this calendar year. The total, so far, is 12,379 signatures to this Thirty-seventh Parliament and over 6,000 names to the Thirty-sixth Parliament, all calling for immediate action on this important matter of Canadian history.

QUESTION PERIOD

CITIZENSHIP AND IMMIGRATION

MEMORANDUM OF CHAIRMAN OF IMMIGRATION AND REFUGEE BOARD REGARDING IMMIGRATION AND REFUGEE PROTECTION BILL

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate. I should like to ask if she has been able to contact the Minister of Citizenship and Immigration to convince that minister that the decision of the Chairman of the Immigration and Refugee Board was completely irregular, to say the least, to request applications for a position that has yet to be approved by Parliament.

Following on that, has the Minister of Citizenship and Immigration agreed to instruct the chairman to withdraw his memorandum seeking applications for candidacy until the position has been approved by Parliament?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for his question. I want the Senate to know how seriously I took this matter yesterday afternoon. I immediately sought a meeting with the Minister of Citizenship and Immigration. I raised the matter with her. The agreement made was that she would request an immediate amendment to the circular so that it would be in line with other circulars that have gone out "pre-passage" of legislation. The amendment would indicate clearly that the legislation has not yet been passed and that should it be passed, the following position would be available to potential candidates.

• (1350)

Senator Lynch-Staunton: Honourable senators, does the amendment to the memorandum soliciting candidacies also amend the date that was set as the deadline in the original memorandum, being May 22, since we know the bill will probably not be before us for third reading until October 31? It is to be hoped that the memorandum will stipulate that subject to the situation, the position will be available and candidacies will be examined only after Parliament has given its consent and Royal Assent has been given to the bill?

Senator Carstairs: Honourable senators, as Senator Lynch-Staunton has indicated, the date on which the chairman of the board was seeking potential applicants was October 22. We have committed to passing this legislation through this chamber on October 31. I passed on to the minister the exact suggestion made by the Honourable Leader of the Opposition. I have not yet seen the revised circular. When I do so, I will share it with the Leader of the Opposition.

Senator Lynch-Staunton: Honourable senators, as a comment rather than a question, I find it extraordinarily disturbing that ministers make basic corrections when they are in what I consider to be contempt of Parliament only when Parliament raises the matter. Had Parliament not brought raised the matter, the situation of the minister having already applied the bill and

the chairman of the board asking for candidacies for a position that does not exist would still be taking place.

That is a serious flaw and it is not the first time it has happened. If it happens again, all honourable senators should participate in some form of action to impress upon the government our serious concerns about superseding the wishes of Parliament, even before those wishes are known.

Senator Carstairs: Honourable senators, I should like to add the following to the comments of the Leader of the Opposition: There seems to remain a misunderstanding in some quarters of this venerable institution about the necessity for legislation to be passed by both the House of Commons and the Senate before that legislation becomes law. I assure the Honourable Leader of the Opposition that I am making every attempt to clarify this misunderstanding.

THE SENATE

LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE—APPEARANCE OF GOVERNMENT OF QUEBEC REGARDING YOUTH CRIMINAL JUSTICE BILL

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is directed to the Chairperson of the Standing Committee on Legal and Constitutional Affairs. Yesterday I asked whether the Government of Quebec would be a witness before that committee during its study of Bill C-7, the youth justice bill. The answer given was that it would be.

Could the chairperson reconfirm that? I have heard rumours that the Government of Quebec will not attend.

Hon. Lorna Milne: Honourable senators, I will read the list of witnesses and indicate whether they have been confirmed.

Next Wednesday, we are hearing from the Canadian Criminal Justice Association, the Association des centres de jeunesse du Québec, the Quebec Coalition of Alternative Justice and the National Association Active in Criminal Justice.

On Thursday, we will hear from the Aide juridique du Québec, the Criminal Lawyers' Association and the Canadian Council of Criminal Defence Lawyers.

On Tuesday, October 30, the first panel will be provincial officials. I do not yet have a full listing of which provincial officials will appear. Letters have gone out and I know that both the Province of Quebec and the Province of Ontario wish to appear. If they are not able to appear on Tuesday, October 30, we will make every effort to ensure they can appear at another time.

The second panel that day will be all the Ontario provincial organizations that have requested to appear, and there are a lot of them.

On Wednesday, October 31, we will hear from the John Howard Society, the Canadian Association of Elizabeth Fry Societies, academic experts, and then officials from the Department of Justice and the minister.

These people have been invited. They have indicated that they want to appear, although I have not yet received a formal response from them.

Senator Kinsella: I thank the honourable senator for that information. The question is asked with reference to the Government of Quebec because that government has indicated that it is taking court action with reference to this legislation. That action colours our analysis of the bill before the committee. The chair has assured us that the Government of Quebec has been invited and we were told yesterday that it is appearing.

Should there be a change in plans with regard to that one witness, I would ask that the chair advise the house.

Senator Milne: I will certainly do so.

[Translation]

TREASURY BOARD

PUBLIC SERVICE COMMISSION—ANNUAL REPORT 2000-01

Hon. Jean-Robert Gauthier: Honourable senators, my question is for the Leader of the Government in the Senate. In its report for 2000-01 tabled yesterday, the Public Service Commission informs us in the last paragraph at page 58, and I quote:

Commissioners also spent time on internal management issues, namely organizational renewal for the PSC as a department.

As we know, the Public Service Commission has operated, since its establishment in 1967, independently and at arm's length from the government in office. The role of the commission is to ensure full compliance with and application of the merit principle in the hiring of public servants. I have not heard in over 30 years a single proposal that the public service be administered by a federal department. It is the case in the United States, but not in Canada.

Could the minister tell us whether this proposal has the support of the government, and, if so, what the advantages of such a reorganization would be?

[English]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the honourable senator knows, the Speech from the Throne made a strong commitment to make our public service the best public service in the world, and we are acting upon that commitment. A task force was mandated to look at all statutes that govern human resource management, including the roles and responsibilities of the various players.

It is my understanding that the task force is examining all options, and one of the options that it is apparently prepared to review is having the Public Service Commission become a

separate ministry. However, the task force will simply make recommendations. The government has reached no conclusions on what those recommendations will be, since the task force has yet to report. It has not even had any discussions about the establishment of a separate ministry.

This is a report. Among its recommendations, the reports asks for a task force. That task force has been set up. The task force is examining the recommendations, but I suggest that we not leap to any conclusions at this time.

[Translation]

Senator Gauthier: Honourable senators, the minister will acknowledge that the act is not being reviewed by the committee, but rather by the Public Service Commission, which says clearly:

We are working on organizational renewal for the PSC as a department.

So it is settled. I think this language is neither acceptable nor clear, and if it is clear, I do not believe that this will work as a department.

[English]

Senator Carstairs: Honourable senators, let me make it very clear that it is not a fait accompli. It is nothing more than a recommendation. The recommendation is also being reviewed by the task force, but it is not a recommendation that the cabinet is studying.

• (1400)

Hon. Lowell Murray: To whom will this task force report?

Senator Carstairs: My understanding is that they will report to the President of the Treasury Board.

Senator Murray: Will the report be public?

Senator Carstairs: I cannot answer that, but I assume that, in due course, it will be public.

STATUS OF WOMEN

NATIONAL ACTION COMMITTEE ON THE STATUS OF WOMEN—FALLOUT FROM COMMENTS BY FORMER PRESIDENT ON UNITED STATES—FUTURE FUNDING

Hon. Gerry St. Germain: Honourable senators, I have a question for the Leader of the Government in the Senate. It relates to my question of October 3 about the speech made by Ms Thobani at the Women's Resistance Conference held in Ottawa.

I wish to read into the record an e-mail that was sent to the Premier of British Columbia, senators from the province, and the Minister of Finance. It is from Mr. Douglas Hensler, Professor of Management, University of Colorado, Boulder, Colorado:

I am writing to inform you that my colleagues and I have cancelled our conference scheduled to be held in Vancouver, B.C. the first weekend of November. We are doing so because of the remarks of Sunera Thobani and most assuredly because of Secretary of State Hedy Fry's failure to immediately react to those comments. We are re-scheduling our conference...and holding it in the United States at some location in the Pacific Northwest.

Honourable senators, the federal government no longer funds the National Action Committee on the Status of Women, but they do fund it on a project-by-project basis. In light of the horrific damage that has been done in my province, especially in the region that I represent, as a result of this individual's comments, is there any serious reconsideration being given to suspending the funding of these types of organizations that are, basically, allowing hate-mongers to participate?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I shall be clear on this point: I disassociate myself from the comments of Professor Thobani in the same way that Minister Hedy Fry, Senator Pearson and the Prime Minister disassociated themselves from those comments. Ms Thobani did not attend the conference as a representative of the National Action Committee for the Status of Women, although she happens to be a past president of that organization.

Honourable senators, to damn an organization because a past president made comments of which we do not approve would seem to be entirely inappropriate. More important, I find it deeply regrettable that an academic organization — I presume that it is — would cancel a conference because they did not value free speech.

I may not agree with Ms Thobani's comments — and I certainly do not — but I do agree with the concept of free speech. If there is not academic free speech in Canada, then we are in serious trouble.

Senator St. Germain: Honourable senators, I will stand beside the minister and defend free speech at any given moment in any given place in Canada. However, we have a law in this land that prevents actions of this nature. We have prosecuted, in the past, those who have taken advantage of free speech. There is a loophole in this law concerning the place of origin. Apparently, the Ontario Human Rights Commission covers this area, and it is my understanding that it is possible that action may be taken against Ms Thobani under the Ontario legislation.

Honourable senators, I do not believe in hiding behind the right to free speech. The fact is that the organization from Boulder, Colorado has cancelled their conference. Some may say that they are surprised by that action by an academic group. I do not know if they are an academic group or a professional group. The letter indicates that they are a "dental task force." There are other groups that have cancelled events as well, and that sends a clear message that the government must not only appear to distance itself, but must distance itself in such a manner as to ensure that these organizations will not cancel their conferences in the future.

The premier's office has reported that other conferences have been cancelled. The economy of British Columbia is being challenged now, as the honourable senator is aware. I am urging the government to distance itself further so that more of these cancellations will not occur. Is the Honourable Leader of the Government in the Senate prepared to take my suggestion to cabinet?

Senator Carstairs: I thank the honourable senator for his question. With the greatest respect, I am not prepared to take that matter to cabinet. An attack on the National Action Committee for the Status of Women because of the actions of one former president is not appropriate. It is not any more appropriate than it would be for me to attack the PC party because the honourable senator used to be the president.

Senator St. Germain: Honourable senators, during the Meech Lake Accord, the leader chastised and criticized the Senate to the greatest extent, and now she stands up and make such a statement. I find that to be shameful. If we are to have proper dialogue in this place, these cheap shots are inappropriate.

Honourable senators, the fact remains that I am not attacking the National Action Committee on the Status of Women. Rather my comments are directed towards the funding of such groups, whether they be the Women's Resistance Conference or other groups. That is what I urge honourable senators to consider.

Senator Carstairs: Honourable senators, I have certainly expressed, over the years, my belief in a reformed Senate. Since my father was a member of this venerable institution for 25 years, I have valued the Senate. I was a child of 13 years when I used to run up and down these corridors. You cannot find anything on the record to indicate that I have criticized this institution. I have indicated that I believe this institution has not reached its fullest potential.

Hon. David Tkachuk: Honourable senators, I have a supplementary question. Did Ms Thobani receive a standing ovation from the majority of the people at that conference, who listened to her speech?

Senator Carstairs: Honourable senators, I was not in attendance at that conference. My understanding is that there were individuals who gave her a standing ovation. I certainly would not have given her a standing ovation. I understand that Senator Pearson, who was present, did not give her a standing ovation; and I understand that the Honourable Minister Fry did not give her a standing ovation. Thus, it was clearly not unanimous. If some individuals in that audience gave her a standing ovation, that was their right as Canadians. I do not agree that that speech deserved anything but condemnation.

Senator Tkachuk: Honourable senators, I did not deny that they had a right to give Ms Thobani a standing ovation if they wished. However, if there was a standing ovation, could the honourable leader inquire as to whether there was one or many standing ovations. If there were many standing ovations by the people who participated in that conference during Ms Thobani's speech, that will answer my question.

Senator Carstairs: I thank the honourable senator for his question, but it is not within my purview to obtain that information because it was not a government conference. The conference at issue was for an organization that brought together people to talk about victims of violence. That was the purpose of the conference. This week, we are celebrating the YWCA's Week Without Violence. I wish to be on the record as supporting that, but at the same time, I wish to condemn the remarks of someone who made inappropriate comments at a conference dealing with women and children, not international and foreign affairs.

Senator Tkachuk: Did the federal government fund this conference?

Senator Carstairs: Yes, we did fund the conference, as we fund many conferences, but we do not monitor each one of those conferences. We do not have individuals in attendance to indicate whether or not there were standing ovations. I can only assume from the media reports, as I indicated, that there was a standing ovation. I cannot indicate how many in the audience participated in that standing ovation, and I suspect neither could anyone else.

• (1410)

NATIONAL DEFENCE

AFGHANISTAN—SHIPS ASSIGNED TO MIDDLE EAST

Hon. Terry Stratton: Honourable senators, I have a question for the Leader of the Government in the Senate as a follow-up to yesterday's discussion. This will be a change of topic.

Since the Prime Minister is in Halifax today seeing off our troops, perhaps the Leader of the Government can confirm which ships, as named by the Department of National Defence, are actually going to sea. To my understanding, as of yesterday, they are the frigates *Halifax*, *Charlottetown* and *Vancouver*; the destroyer HMCS *Iroquois*; and the supply ship HMCS *Preserver*. Those were the five ships, but the minister announced there would be six. Can the leader inform us today which was the sixth ship?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the sixth ship has not yet been identified. Three ships will leave today and the others will leave in due course.

While I am on my feet, I wish to follow up on a question yesterday from Honourable Senator Tkachuk about whether there have been government press releases or statements about the activities of the Taliban. We did a Web site check to see what we could find and determined that one statement dealt with the identification of religious minorities. There may well be others, but the government has been very clear in responding to certain activities by the Taliban in the past.

Senator Stratton: Honourable senators, is there a reason why the government has not named the sixth ship? We keep hearing reports that, perhaps, no other ship is ready to sail. Perhaps there

is a shortage of sailors. Can the Leader of the Government in the Senate confirm why that sixth ship is not available and why it is not leaving now? If it is intended that it will depart, can the minister indicate the anticipated departure date?

Senator Carstairs: As honourable senators understand, certain security issues are involved here and I cannot give all the details that everyone would like to hear in a public forum. The sixth ship has not been identified in the sense that the partners have not yet decided what type of ship they want at this point in time.

FOREIGN AFFAIRS

CONFERENCE OF NATIONS OF ASIA-PACIFIC ECONOMIC COOPERATION—POLICY ON TREATMENT OF FALUN GONG

Hon. A. Raynell Andreychuk: Honourable senators, my understanding is that the Prime Minister will be going to the APEC meeting in Shanghai. On September 11, we learned, in graphic form, the lesson of the link between politics and the economy. Will the Prime Minister raise with his Chinese counterpart the brutal treatment of the Falun Gong in China?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the APEC meeting is still scheduled to begin on October 20. It is one of a few conferences that have not yet been cancelled. A number of issues will be raised, including the economies of APEC nations, particularly in light of September 11. The Prime Minister will seek allies in the war against terrorism, and terrorism will now become, perhaps, a more significant part of the agenda than it was previously.

As to the honourable senator's specific question with respect to the Falun Gong, I will make the Prime Minister aware of the fact that she and other honourable senators, I am sure, wish that that issue be raised.

ORDERS OF THE DAY

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 2001

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Poulin, seconded by the Honourable Senator Callbeck, for the second reading of Bill S-31, to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, a similar bill came to us about two years ago. One of the countries involved at that time, as it turns out, is now one of America's great allies in the war against terrorism, namely, Uzbekistan. It was pointed out that this country's human rights record was one of the most appalling imaginable. Canada has no great investment in that country and there are problems getting foreign currencies out. The question that arose at that time was this: Why do we have tax conventions with countries such as Uzbekistan? Doing so, to my mind and to the minds of others, sanctions activities in a particular country with which we are not at all sympathetic. The argument went so far that the bill was referred not only to the Banking Committee for study of the tax conventions themselves but also to the Foreign Affairs Committee for study of the human rights aspects. Those discussions were very valuable. It was hoped that when future bills of this nature came to us, like this one today, where there are six or seven nations involved, the human rights records of those countries would at least be included in the briefing book.

Perhaps the government is more gun-shy now because the reference to the human rights of each country in the current briefing book is much less expansive than it was in the book that covered the previous bill to which I just referred.

Fortunately, there are no glaring Uzbekistans in this list. We could quarrel with one or two countries, but not enough to make an issue of it. However, I should like to think that when we negotiate with countries with glaringly delinquent human rights records, the government will advise us of those records. We can get such information off the Internet through Amnesty International and other organizations, but the government has a responsibility to bring it to our attention.

For the record, I will raise this matter in front of the Banking Committee. However, I have no objection to this bill pursuing its ordinary course.

Hon. A. Raynell Andreychuk: Honourable senators, I wish to speak to this bill as well. The Foreign Affairs Committee has studied the issue. Previously, income tax conventions were signed with countries where a commonality of security or other linkages were sufficiently and traditionally entrenched so that we could have some confidence that their taxation systems mirrored ours. It was important that we proceeded with this type of initiative.

However, as Canada's influence expanded into other countries around the world, it became abundantly clear that while the tax department does a full and complete analysis of the acceptability of the taxation system and the procedures surrounding taxation, no analysis was being done country by country to determine whether other issues in those countries were receptive to such a close agreement.

One such issue is privacy. In Canada, we give a lot of information to our tax people. If a double-taxation agreement is in place, information can and often does get into the hands of the signatory countries. We have no idea whether they treat confidentiality and privacy in the same manner as we do. We also do not know whether their concept of good governance and the rule of law takes into account the same issues that we do, such as

human rights and the ability to come before the courts to defend oneself against government action. No one in the system stands back and looks at whether these agreements are in Canada's national interest. All we are looking at is specific financial interest, country to country.

• (1420)

Consequently, we had two bills come before the Foreign Affairs Committee. In the first one, the taxation people indicated they do not do a countrywide assessment on all factors. They simply look at financial factors. There was an undertaking that perhaps it was valid to look beyond that. In the second bill, which included Uzbekistan, there was some analysis, but it was done as a result of our prodding. There were assurances given that this kind of countrywide view would be taken into account. This bill is going to the Banking Committee and, again, a unanimous recommendation made by a Senate committee is not being followed through.

From day to day, we do not know who our allies are or what progress is occurring in these countries. Uzbekistan may be one we want to look at in great detail. If we are part of the international community, we treat all our counterparts equally, and there should be some screening to prevent superficially identifying some countries as less worthy and some traditionally more worthy. Canada has always stood on being neutral in that we treat all countries equally. We do that by way of the process through which all countries must go if they are to sign a taxation agreement.

I do not believe that the taxation process is sufficient to look at Canada's national interests on more global questions, nor do I believe it protects and affords the kinds of assurances that the Canadian government should give to businesses and individuals in other countries, particularly in our global economy.

Again, honourable senators, I am extremely disappointed that the Foreign Affairs department has not seen fit to follow through on our recommendations, and I am extremely disappointed that this house will now move this bill to the Banking Committee, avoiding what I would consider to be appropriate scrutiny in the Foreign Affairs Committee.

[Translation]

Hon. Céline Hervieux-Payette: Honourable senators, in the past, I have sponsored tax bills that concerned other countries where, indeed, the emphasis was not on human rights. It seems to me that Canada's philosophy has always been to promote the economic progress of these countries, because the more the wealth is shared, the more jobs and the more opportunities there are to educate the public.

This issue was not discussed by the Standing Senate Committee on Banking, Trade and Commerce, but it can be raised without any problem. The bill seeks primarily to serve the best interests of Canadian investors and not adversely affect them. It goes without saying that we support foreign trade, so as to allow those countries that are not fully developed to create quality jobs and allow us to export not only our loonies, but also our traditions and values.

Honourable senators, the Standing Senate Committee on Banking, Trade and Commerce, on which I sit, will review this bill very carefully to protect the best interests of Canadians.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

On motion of Senator Robichaud, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

[English]

THE SENATE

MOTION TO APPOINT SPECIAL COMMITTEE ON
ANTI-TERRORISM BILL ADOPTED AS AMENDED

Hon. Sharon Carstairs (Leader of the Government), pursuant to notice of October 16, 2001, moved:

That a special committee of the Senate be appointed to examine the subject matter of Bill C-36, An Act to amend the Criminal Code, the Official Secrets Act, the Canada Evidence Act, the Proceeds of Crime (Money Laundering) Act and other Acts, and to enact measures respecting the registration of charities, in order to combat terrorism, in advance of the said bill coming before the Senate;

That the bill be referred to the said special committee in due course;

That the following Senators be appointed to serve on the Special Committee: namely the Honourable Senators Andreychuk, Bacon, Beaudoin, Fairbairn, P.C., Fraser, Furey, Jaffer, Kelleher, P.C., Kenny, Murray, P.C. Stollery and Tkachuk, and that four members constitute a quorum;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee;

That the committee have power to sit during sittings and adjournments of the Senate;

That the committee have power to authorize television and radio broadcasting, as it deems appropriate, of any or all of its proceedings;

That the committee have power to retain the services of professional, clerical, stenographic and such other staff as deemed advisable by the committee; and

That the committee be permitted, notwithstanding usual practices, to deposit any report related to its study of the subject-matter of the Bill with the Clerk of the Senate, if the Senate is not then sitting, and that any report so deposited be deemed to have been tabled in the Chamber.

She said: Honourable senators, the government has been responding to the events of September 11 with a wide variety of initiatives, from increased funds for certain departments and agencies to the creation of a more secure identity document for permanent residents, to Operation Apollo, the largest deployment of Canadian Armed Forces since the Korean War, involving more than 2,000 men and women. The deployment of troops is a difficult decision for any government under any circumstances, and I can assure honourable senators that the decision was not taken lightly. The introduction of Bill C-36, the Anti-terrorism Act, on Monday of this week in the House of Commons was another important step in Canada's fight against terrorism.

Honourable senators, we gave careful consideration to the possibility of a pre-study before deciding to propose it to the Senate. It must be noted that in recent times, the Senate has rarely resorted to pre-study, preferring instead to conduct its full committee process on government bills only after they have passed the other place. Pre-study used to be a prominent feature of the Senate's work, but it has waned in the past decade.

In the view of the government, and I dare say a good number of my colleagues on all sides of the Senate who have spoken to me privately, the need to take steps to ensure the security of Canadians and Canadian interests deserves our best effort to deal with Bill C-36 in an expeditious manner. The events of recent weeks have impressed upon all of us the need to respond in a timely way to reassure Canadians that everything that can be done is being done to guarantee their safety and liberty.

Pre-study is one way of ensuring timely passage of this bill while at the same time maximizing the Senate's capacity to make a real contribution to the legislative process. I am confident that our committee will be able to make a very important contribution. As a Minister of Crown, I assure honourable senators that when the Senate committee speaks, the government will be listening, and listening carefully.

The Hon the Speaker *pro tempore*: I apologize for interrupting the Honourable Senator Carstairs, but I am having problems hearing. Please, honourable senators, out of respect for senators who are speaking, take your conversations to the reading room.

Senator Carstairs: On this point, let me quote the Prime Minister when he spoke in the other place on Monday of this week:

...we all recognize that the legislation has of necessity been prepared quickly. Therefore, the role of the justice committees of the House and Senate in scrutinizing the bill will be of particular importance. It must examine the bill through the lens not only of public safety but also of individual rights.

I can assure the House that the government will pay close attention to the findings and recommendations of the committees. I want the committees to give the bill a thorough study, while obviously taking into account the need to pass legislation as quickly as possible.

Being mindful of the need to deal with the bill in a timely way, I am sure honourable senators will agree that, in this case, a pre-study is warranted. By choosing this route, we will preserve the Senate's capacity to have input in the development of the bill, while making it possible to proceed more quickly than if we dealt with the bill through our more ordinary procedures.

For that reason, I ask all honourable senators to support this motion, which would establish a special committee of the Senate for the purpose of the pre-study. I note for senators' interest that it is our intention to refer the actual bill back to the special committee once it passes second reading in the Senate. This motion reflects that intention. In no way is this process meant to stymie debate when we receive that bill in its appropriate form.

I will be addressing the bill itself in detail when it eventually arrives in the Senate. However, let me take this opportunity to place on the record a brief overview of the initiatives contained in Bill C-36.

• (1430)

This legislative initiative helps us ensure that the most effective tools possible are in place to help our police, prosecutors and courts to deal with the terrorist threats. Criminal Code provisions governing acts such as hijacking, attacks on aircraft and murder remain important tools that will continue to be available for prosecuting criminal acts committed by terrorists.

However, the events of September 11 call for additional tools to be made available to facilitate those efforts. It is not enough to improve our ability to bring terrorists to justice. We must find ways to incapacitate terrorist groups, even before they can attack, by striking at their organization and financing. With the passage of this legislation, it will be an offence under the Criminal Code to knowingly participate in the activities of a terrorist group.

It will also be a crime to finance terrorism and, more specifically, it will be an offence to provide or collect property with the intention of using it to carry out terrorist activity. In this regard, the bill will implement, fully and effectively, the International Terrorist Financing Convention and United Nations Security Council Resolution 1373. The bill defines "terrorist activity" in accordance with the offences in the United Nations conventions and the definitions used by our allies, but also takes into account Canadian values. Based on this definition, the bill allows the government to freeze the assets of terrorists and terrorist groups as required by the UN convention and UN Security Council. Further, not only will we freeze the assets of terrorists, we will in this bill create measures to permit the seizure and forfeiture of those assets.

The challenge in developing this legislation has been to respond in a way that reflects our core values of freedom,

democracy and equality. The attacks of September 11 may have caused us to re-examine the balance between freedom and security, but rather than retreat, we will proceed in way that reflects our deepest values and does not abandon them.

This bill balances the need to protect Canadians from terrorist harm with the need to respect, preserve and promote the fundamental Canadian values guaranteed in the Charter of Rights and Freedoms. It will provide meaningful protection of civil liberties through the inclusion of important due process guarantees, including judicial oversight, access of individuals to effective means of redress, acknowledgment of rights, privileges and immunities, and other recognized safeguards.

The bill also reflects the importance of re-examining the necessity and effectiveness of these measures on an ongoing basis, and calls for a parliamentary review after three years.

In developing this legislation, we have paid close attention to what other democratic countries are doing in the fight against terrorism. It is important that we act in a way consistent with the approach of other democratic countries and that conforms with international law, and above all, it is important to reflect our values as Canadians.

In order to ensure that we respect and protect Canadian values, we must engage in a robust debate about these and other measures that the government will put before Parliament and the Canadian people. The need for an honest, open and inclusive debate has perhaps never been more pressing than it is now, as we move forward in the fight against terrorism. By agreeing to participate in a pre-study, the Senate from the very outset will be able to make an important contribution to this essential public debate.

Many of us have been horrified to learn that, subsequent to the attacks on the United States, some groups and individuals have been the target of racial and religious slurs, and even violent attacks. There is no place for this behaviour in our country. The anti-terrorism bill contains two proposals that will strengthen the protection of religious freedom and act to counter hatred based on race, religion and ethnic prejudice.

The Criminal Code already contains strong measures to combat hate crimes. We are proposing in this legislation the creation of a new offence in relation to a place of worship — a church, a synagogue, a mosque, a temple or similar place — where it is proven that the attack was motivated by hate based on religion. The maximum penalty for this new offence will be ten years imprisonment. The new offence sends a clear signal that attacking a religious institution is a serious offence.

The bill also introduces an amendment to the Canadian Human Rights Act to combat hate propaganda. The act already prohibits the use of telephone communications to expose people to hatred or contempt because they are identified as being of a particular religion or ethnic origin. It will now be amended to ensure that it covers the spreading of hate messages via the Internet and other computer systems.

I have already touched on the Charter several times in this speech, but let me say that anyone who follows the work of the Senate would expect nothing less from this institution than careful scrutiny of this bill through the lens of the Charter of Rights and Freedoms. For that reason, I should like to take a few moments to highlight some of the many checks and balances designed to ensure consistency with Canada's legal framework, including the Charter of Rights and Freedoms. I will mention just a few of the safeguards that are set out in this bill.

The scope of the provisions of the bill is clearly defined so that the provisions are targeted at terrorists and terrorist groups. Legitimate political activism and protests are thereby protected through the precise definition of terrorist activity.

Under the participation and contribution offences, the burden of proof will be on the state to establish that there was intent on the part of the accused, that the activities were "for the purpose of facilitating or carrying out terrorist activity."

The process of adding a group to the list of terrorists incorporates a number of protections, including provisions for removal, judicial review, and safeguards to address cases of mistaken identity. As well, the list must be reviewed every two years by the Solicitor General.

Procedural safeguards built into the civil forfeiture scheme include court protection of the interests of family members in the principal residence, access to the property in order to meet reasonable living or business needs and legal expenses, and appeal procedures.

The Attorney General must consent to prosecute the financing of terrorism offences. It is the state that carries the burden of proof for establishing that the accused knew or intended that the money or resources were being used to plan, facilitate or carry out terrorist acts.

In fulfilling its mandate to collect foreign intelligence, the Communications Security Establishment must receive authorization from the Minister of Defence to intercept any communication to or from a foreign target located outside of Canada that originates or ends in Canada. The minister must be satisfied before issuing such authorization that measures are in place to protect the privacy of Canadians.

Police may use preventive arrest provisions to bring a suspected terrorist before a judge, where there are reasonable grounds to believe that a terrorist activity will be carried out and reasonable grounds to suspect that imposing conditions or arrest is necessary to prevent the carrying out of the terrorist activity. The threat must be specific and involve a specific individual. Except in exigent circumstances, the Attorney General must consent to the arrest. In all cases, the detention after arrest must receive judicial review within 24 hours. In addition, the consent of the Attorney General is required before a judge can be asked to impose supervisory conditions on the release of the person or detain the person for any longer period, up to a maximum of an additional 48 hours.

I would note, for the interest of honourable senators, that the media reports mentioning arrest without warrant for up to 72 hours have failed to mention the judicial process that must be invoked within 24 hours to detain a person for that length of time.

Under the investigative hearing provisions, a judge may order the examination of a material witness. In order for an investigative hearing to occur, the judge must be satisfied that the consent of the Attorney General was obtained and that there are reasonable grounds to believe that a terrorist offence has been or will be committed. In addition, during the hearing, people are protected from self-incrimination, and laws relating to privilege and the non-disclosure of information, as well as the right to counsel, will continue to apply. The legislation also provides the judge with the authority to include terms and conditions to protect the interests of the witness, third parties and any ongoing investigations.

These examples are just an illustration of the special care that has been taken to preserve the rights of Canadians throughout this bill. I know that our Senate committee will want to examine each of these protections carefully as it studies the subject matter of Bill S-36.

• (1440)

Honourable senators, let me be clear. The government recognizes that the preparation of this legislation was accomplished in a very short period of time. We want to get it right. The work of the committees of both Houses will be invaluable to the government as we move forward with this initiative.

For the Senate to make its maximum contribution, our wish is to set in motion a pre-study that will enable the Senate's deliberations to be taken into account before the bill passes in the other place. In that way, we can maximize the potential to bring our diverse expertise to bear on these significant initiatives, while helping to move the bill along in a timely way. I ask honourable senators to support this motion.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I should like to make some comments on this motion before the house. I wish to begin by making it clear that the opposition intends to support this motion.

The comments I would add at this time cover four areas. First, I want to speak about the practice of pre-study. Second, I want to speak about the substantive issues alluded to by the Leader of the Government in the Senate that are found in the draft Bill C-36. Third, we must examine the conditions that ought to be present when the state assumes extraordinary powers, such as in times of emergency. Finally, I should like assurance that we will have sufficient mechanisms in place to give the kind of oversight required in a free and democratic society when we give the state extraordinary powers.

Let me begin, honourable senators, by pointing out that on September 18, when we had our debate on the challenges facing us after the horrible, evil events of September 11, some of us on this side underscored the importance of the Senate of Canada taking immediate concrete steps. There is a responsibility, indeed, a duty on behalf of this branch of Parliament to ensure that we have the infrastructure in place to deal with the challenges of this new international environment, which includes, regrettably, horrific acts of terrorism.

We suggested that a pre-study of Bill C-16 might have been an important concrete step. Bill C-16 dealt with the matter of fundraising. We are quite pleased that the government has seen fit to use this mechanism of pre-study, and it should not be dissuaded from using it, notwithstanding the view of some honourable senators who have held positions of leadership in this place on the other side.

I point out, however, that the pre-study process is effective only if the Senate committee doing the pre-study gets its work done in a timely fashion. By "timely fashion," I mean in time for the report of our special committee to be in the hands of the members of other place, preferably, when the bill is still at committee stage.

In terms of a practical time line, I would encourage the honourable senators who will constitute the membership of the special committee to aim for a date in early November. It is my understanding that the report stage in the other place may come anywhere between the November 1 and November 6.

My recommendation to the special committee is that it keep an eye on the time line being followed in the other place in order that a report or interim report could reach the Senate in time so that our recommendations might influence any changes we feel would be needed in this bill before the bill is out of committee stage in the other place.

My second point is that our participation in pre-study does not imply any commitment to an abbreviated process the Senate might undertake to follow when we receive the bill. We do not know what will be the content of the bill when it comes from the House of Commons. We must maintain our right to examine that bill. Clearly, we will be better informed on the content and the subject matter having done some pre-study work and having had a report from the special committee, but the bill will have to go through the normal process when it is received here.

In terms of the substantive issues in this bill, honourable senators, my hope is that the special committee takes a careful look at what appears to be a failure in the bill as currently written to define terrorism. There is no definition of terrorism in the bill. Terrorist activities and terrorist groups are defined, but not terrorism.

Honourable senators, this is not an issue of relativism — the one man's terrorist is another man's freedom fighter argument — as there are working definitions of terrorism. National liberation movements are well defined and well understood in terms of international law.

In his book on terrorism, Paul Wilkinson defines terrorism as premeditated. He writes that it aims to create a climate of fear directed at a wider audience or target than the immediate victims, involving attacks on random and symbolic targets, including civilians, and acts of violence that breach social norms, thus causing outrage. Terrorism is used to influence political behaviour.

I point this out to highlight that the committee should look at whether it would be wise to provide in the statute a clear definition of terrorism. We have a bill right now which sidesteps that matter and gives merely a definition of terrorist acts.

Honourable senators, I would hope that the committee and all Canadians would not hesitate to criticize the government for its failure to ratify two of the UN conventions dealing with terrorism. The bill provides for the ratification of the International Convention for the Suppression of the Financing of Terrorism and the International Convention on the Suppression of Terrorist Bombing. That should have been done some time ago. Canada negotiated and signed these conventions two years ago, but this government failed to ratify them.

Certain members of cabinet have suggested that the cabinet itself was worried about offending minority constituents. Whatever the reasons, I simply make the point that the government is not without some fault in not keeping up to date. Those conventions ought to have been ratified some time ago.

Another issue I hope the committee will focus on and explore in its examination of witnesses is the seizing of assets of groups deemed to support terrorist organizations. Similar American acts regarding the seizure of assets of narcotics traffickers have been subject to widespread abuse. Police have been accused of planting small amounts of drugs in vehicles in order to seize these vehicles and then purchase them cheaply at auction. An amendment to the bill giving Parliament a more active oversight role should include an oversight of the disposal of assets of terrorist groups.

• (1450)

In terms of some of the substantive issues that I see in Bill C-36 that the committee might examine, my last point relates to the Official Secrets Act. Amendments to the Official Secrets Act do not include a removal of the reverse onus in the act. As it stands, the burden is on the accused to prove that he or she is not in possession of secrets to which they are not privy or information that he or she has legally divulged to which he or she is privy. This is in contradiction to the Charter, which puts the onus on the state. Due to the high probability of a successful challenge under the Charter, prosecutions under the act are non-existent.

I believe it was back in 1982 that there was an attempt at a prosecution. Violations are addressed administratively. If removal of the reverse onus is not included in Bill C-36, then the Official Secrets Act amendments are the weakest link and, perhaps, the bill will run into some major difficulties before the courts.

The third point, honourable senators, is that we must stand back a little bit. I hope the committee will use this approach, in part, as a frame of reference, as it does its work. No state of emergency has been declared. We in Canada are not in a state of emergency. Therefore, the kinds of extraordinary powers that are made available by democracies to the state cannot be taken on by the state without such a declaration. In the last few days, we have heard many references from government spokespersons that in the drafting of this bill it has gone through the Charter wringer over and over again. It is a nice metaphor. I hope they are right when they say that this bill is Charter-proof.

However, honourable senators, there are lacunae in our Charter. Our Charter has an important place in our democracy, but it is not the perfect instrument. For example, our Charter does not speak of the derogation of rights in times of national emergency. I want to draw to the attention of honourable senators the International Covenant on Civil and Political Rights ratified by Canada in 1976. In particular, I wish to draw to the attention of honourable senators article 4 of the convention which speaks directly to times of national emergency, when the life of the nation itself is threatened.

What does the international covenant say? It is an international treaty to which Canada is bound under international treaty law with the written agreement of every government of Canada. All the governments of Canada said "Yes, we wish Canada to ratify this covenant, this treaty. We will respect the rights and freedoms to which it speaks."

Article 4 states:

In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the State's Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

That is the principle. It is the standard. If there is to be derogation, even in times of proclaimed national emergencies, when some derogation may occur, it can never be derogation from the right of non-discrimination.

Subsection 2 states that there shall be no derogation at all from article 6, which deals with the right to life, or from article 7, which deals with torture. In the bill, for example, there is the provision that a person could be brought before a judge and made to talk. I am of the view that we would never see the situation in Canada where people have electrical currents run through them to make them talk — God forbid. However, let us ensure that the law will be such that it can never derogate from the right to non-discrimination, from torture, servitude or slavery. I will not go into all the arguments.

The point I want to make is simply this: We are not dealing with any declared state of national emergency.

The Hon the Speaker *pro tempore*: I am sorry to interrupt the Honourable Senator Kinsella; however, his allotted time has expired.

Is leave granted for the honourable senator to continue?

Hon. Senators: Agreed.

Senator Kinsella: I thank honourable senators.

What we are dealing with here, honourable senators, is not a state of national emergency where the life of the nation is threatened. We are dealing with a serious problem, but the committee might want to keep in mind that type of consideration.

Finally, honourable senators, I wish the committee to be encouraged in its work to pay particular attention, as Senator Carstairs has alluded to, to the protection of human rights and civil liberties, that the mechanisms that the bill provides for, up to this point, are the ordinary mechanisms. If this is a special circumstance, a special infrastructure may be necessary to provide appropriate oversight for the exercise of these extraordinary powers.

In my own view, honourable senators, at this early stage, I would like to see a joint parliamentary commission established for the life of this act that would provide ongoing oversight from the day it receives Royal Assent, such that the rights and freedoms of Canadians may be secured. Those who will be exercising these extraordinary powers will know that there is a parliamentary committee of the two Houses keeping an eye on the exercise of these powers. This may be plowing new ground. However, the bill before us is plowing new ground. I am not sure whether that is the best model. I encourage the committee in the examination of witnesses to see whether we can come up with a type of oversight mechanism that would provide for the kind of security and protection that exists under the CSIS Act in the form of the Security Intelligence Review Committee.

• (1500)

That committee is composed of a few members of the Privy Council, therefore it has the security in respect of the public interest. The CSIS Review Committee has done a good job in providing the oversight — not the micro-management of the work of the agency, but rather that broader overview to ensure that the rights and freedoms of Canadians are not arbitrarily interfered with, given the extraordinary powers held by the officers of CSIS. Perhaps something of that nature would be appropriate under this act.

Clause 145 provides for a review after three years. That model, perhaps, could be worked on by the committee allowing a review of the operation to commence immediately following Royal Assent, rather than after three years. I would encourage the honourable members of the committee to determine whether a mechanism might be identified to bring an amendment to that effect to the bill.

MOTION IN AMENDMENT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wish to move an amendment to the motion before us. I move, seconded by the Honourable Senator Stratton, that the motion be amended by adding after the first paragraph the following:

That the committee in its examination shall *inter alia* explore the protection of human rights and civil liberties in the application of this Act;

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Hon. Senators: Agreed.

Motion in amendment agreed to.

The Hon. the Speaker: Honourable senators, the debate may continue on the motion as amended.

Hon. Anne C. Cools: Honourable senators, I have a question for Senator Kinsella.

An Hon. Senator: No.

Hon. Jeremiah S. Grafstein: Honourable senators, I rise to note and reiterate my objection, which should come as no surprise to many senators, to a Senate committee pre-studying bills in parallel with the House of Commons. The Senate should be free to examine and exercise its sober second review, only after the Commons has done its work, in respect of the government's response to this threat of terrorism. The Senate has demonstrated in the past that it can fashion its practices in a timely way and yet not rush to judgment.

This bill contains many admirable provisions, yet it grants awesome new powers to the state. These new powers should be carefully studied by the Senate, after the Commons does its work, to determine if the response by the other place is in keeping with the nature of the threat as it applies to Canadian security. The Canadian public expects the Senate to carefully consider this bill, especially in turbulent times such as these.

Honourable senators, as a question of principle, I disagree with the practice of the pre-study of bills by the Senate because it is inconsistent with the Senate's carefully crafted constitutional mandate of sober second thought.

I should hope that those honourable members selected to this special committee would consider that the bill's granting of such extraordinary powers is finite and should expire after five years, after ensuring that there is no further clear and present danger to Canadian security.

Honourable senators, if we in the Senate have learned any lesson, it is that the principles and practices of the Senate march best when they march together.

[Translation]

Hon. Gérard-A. Beaudoin: Honourable senators, I wish to second the amendment of Senator Kinsella. There are some who may say that the amendment is unnecessary, first, because all legislation must respect the Charter of Rights and Freedoms since it is part of the Constitution and, second, because Bill C-36 on terrorism does not contain a notwithstanding clause. For that I am deeply grateful.

However, I second the amendment because it is good to ensure that the special committee on terrorism, which the Senate is being asked to strike today, keeps rights and freedoms firmly in mind. I wanted to say that it is entirely possible to ensure the safety of all Canadians and still respect our constitutional Charter, which greatly enhances our democratic values.

We quite rightly defend our rights and freedoms. We must also respect them in all our legislation.

[English]

Hon. Serge Joyal: I rise this afternoon to speak to the motion. As the Honourable Leader of the Government in the Senate mentioned in her presentation, the committee will report to this house then will consider what the other place has done with the bill. The bill will then proceed, as I understand, expeditiously.

There are concerns that I wish to share with honourable senators, because a member of the committee is in a better position to express and relay that information. As a senator, I can speak freely at any sitting of the committee and I intend to do so.

Honourable senators, Bill C-36 is important, not only in size but in terms of implications. I am certain you remember that two weeks ago I spoke to Bill C-24 in respect of the anti-gang legislation. That is another complex bill that concerns the issues of rights and rules of law. As well, there is Bill C-7 in respect of youth criminal justice, which also concerns Charter issues and international covenant issues, because it is the object of a reference in the Quebec Court of Appeal on those specific points.

Honourable senators, those three bills are now before us. We are dealing with them in various committees. My opinion is that they "cut short on the skin of the Charter." In fact, they are almost unconstitutional. One of the bills, as I mentioned, is already before the Court of Appeal of Quebec, and earlier today questions were raised about that matter during Question Period.

• (1510)

Bill C-24 raises the importance of monitoring the criminal activities of police during the course of investigations. This is a very important bill. I studied the issue last summer during the recess. In my comments following Senator Kelleher's speech, I gave the example of the Police Act of Great Britain. It provided a mechanism to monitor decisions of the police to ensure that if, in extraordinary circumstances, the police must resort to criminal offences in the course of normal activities, they could be monitored so that the ordinary citizen is protected.

This bill, which is also an important bill, has a preamble. The sixth paragraph of the preamble, as the Honourable Senator Carstairs has stated, refers to the Canadian Charter of Rights and Freedoms and the values that underpin the Charter. This is broader than the values underpinning the Charter. Those of us who have been participating for more than 20 years in the discussions related to the Charter — and I see Senator Fairbairn will be chairing the special committee — will remember that the whole concept of the Charter was based on a fundamental principle that is the rule of law. The Supreme Court Canada in the *Reference re Secession of Quebec* was clearly eloquent on the process of the rule of law. I should like to read two lines from paragraph 70 of their opinion. It states:

70. The principles of constitutionalism and the rule of law lie at the root of our system of government. The rule of law, as observed in *Roncarelli v. Duplessis*...is "a fundamental postulate of our constitutional structure."... It provides a shield for individuals from arbitrary state action.

None of us deny that different circumstances prevail today in the fight against organized crime or in the fight against terrorism. I am of the opinion that the principle of the rule of law is paramount in the examination of any extraordinary power given to police forces. When I read the clauses of the bill dealing, for instance, with the interception of communications, with the interception of e-mail, with communication between Canadians or someone in Canada and abroad, things that are now covered with this bill, and when I read in the bill that the authorization for the invasion of privacy is extended from sixty days to one year, I ask: What kind of control is placed on those special authorizations to ensure that there is no "bavure"? We all know — and I quoted from it two weeks ago — that in 1981, the McDonald commission established a set of principles that should guide anyone dealing with the control of police activities that might be against the rule of law.

I want to refer again to a principle of the McDonald commission. I think it is important for honourable senators to have this principle in mind because it is paramount to any discussion that we will have on this bill. The McDonald commission states clearly that nothing should prevail over the rule of law. The needs of national security and national defence should not prevail over the rule of law. To me, this is fundamental. In fact, so fundamental is the interception of Internet and e-mail communications, given the advent of modern devices that we know terrorists use extensively, we must be sure that there is a monitoring capacity. I do not think we should invent that monitoring capacity.

Honourable senators, we must learn from the example of the British House of Commons and House of Lords. Their report of June 1999 chronicled an extensive consultation on the interceptions of communications in the United Kingdom. The report recommended a procedure to monitor the interception of communications, a code of practice, a compensation mechanism and the appointment of an independent commissioner who reports to the Prime Minister, who tabled the report in Parliament. There is control over what is clearly an invasion of the privacy rights covered in our Charter.

Honourable senators, I do not wish to prolong the debate, but this matter is of paramount importance. As I stated earlier, we are close to crossing, as the French expression states:

[Translation]

"le Rubicon des droits et libertés" or the Rubicon of rights and freedoms. If there is one important feature of our democratic system, one key component of our rights and freedoms, it is the constitutional protection afforded us by the Canadian Charter of Rights and Freedoms and the international instruments Canada has signed.

[English]

Let me quote again Lord Chief Justice Woolf of Great Britain, who declared in September, in the wake of the evidence we all aware of, that:

We are a country governed by the law and we mustn't allow the stresses and tensions, which are understandable, to deflect us from that...

Honourable senators, if there is an institution of Parliament that can exercise that sober second thought, it is the Senate of Canada. Essentially, that is why we are here. We are here to exercise an independent, long-term perspective, a monitoring capacity over the direction that this country is taking. This country finds itself in an evolution, and we may look back and say, "What have we been doing? Where are we as a society?" This is an extremely important point.

I now want to go over the last point made by Senator Kinsella. If we are to give exceptional power in this bill to the police forces and to the investigative authorities generally, then we should reflect on what the Americans did last week. What did the Congress do last week when they adopted special powers for their police? The compromise between the Senate and the Congress was an expiration clause of those powers.

A number of clauses in this bill could remain in our statute books because they are needed to recognize the conditions in which the police forces operate now, but other powers are in front of us today because of exceptional circumstances. When those exceptional circumstances are dealt with in the appropriate time — and in the U.S. Congress it is five years — those powers will lapse.

This bill contains a sunset clause, as Senator Carstairs has mentioned and as Senator Kinsella has echoed. It is an important clause, but we could go a step further in committee deliberations to protect the unique character of Canada.

I shall end by quoting from Justice Earl Warren. He was a famous American judge who, in 1967, had to judge the important *Robel* case. He said:

It would be ironic indeed if, in the name of national defence, we would sanction the subversion of those liberties...which make the defence of the nation worthwhile.

In other words, to use another common image, it would be the snake that bites its tail. We want to protect our freedom and liberties, but in so doing we may go overboard.

• (1520)

I commend the Leader of the Government in the Senate for having recognized that this bill needs sober second thought because there are elements in it that raise questions, and if there is a fundamental role that we have as senators, it is to reflect on the long-term implications and the kind of society we are building by adopting those extraordinary powers.

Hon. Jim Tunney: Honourable senators, as you know, I am rather new to this place. We are talking about a pre-study, an experience which probably most honourable senators have not had before. What I wish to say is partly in the nature of a question, if Senator Kinsella would care to entertain it. Is it not slightly ahead of time to be putting forth an amendment before we have had a look at the bill? I want to read this bill in its entirety. I will be making some judgments on the contents of it. I am not saying I would oppose the senator's amendment. I may very well support that amendment, but I would not be surprised if in due course that same senator might want to change, add to or redo his motion in some way. That is my question, my concern. I am looking for a little bit of education here.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it should be recognized that, if I speak now, I will close the debate, but I wanted to take the opportunity to answer Senator Tunney's question either now or later.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators, for Senator Carstairs to respond to Senator Tunney?

Hon. John Bryden: Honourable senators, I find myself once again concerned by the use of the phrase "the rule of law." Whatever we do in consideration of this significant piece of legislation, we must be governed by "the rule of law." I have never been able to settle clearly in my mind what the rule of law is. I understand in part what the rule of law is, but is there a superior rule of law? Presumably, if we pass this bill and it becomes law, then the people who act under it and who act in accordance with it will be acting in accordance with the rule of law. As I understand law, the bill will be, at that stage, a law. People are not acting arbitrarily; the state is not acting arbitrarily; they are acting in accordance with the new law.

Then we get thrown back, and I have heard this so many times, right from the old days of the Pearson bill: "Whatever happens, it must be done in accordance with the rule of law because there is a reference to the rule of law in the Charter of Rights and Freedoms."

I am hoping that the case before us is so significant that the committee, and the chamber when the matter comes back to us later, will have an opportunity to consider how this rule of law operates. Let me give you a very brief idea of why I find it a difficult concept to put in context.

In the first "whereas" section of Bill C-36, it states:

WHEREAS Canadians and people everywhere are entitled to live their lives in peace, freedom and security...

I believe the next "whereas" clause could have been inserted as follows:

WHEREAS the Constitution of Canada empowers the Parliament of Canada to make laws for the peace, order and good Government of Canada...

Then all other "whereas" clauses could flow from that. If ever there were a time in Canada for Parliament's preeminence to make laws in the interests of the peace, order and good government of Canada, we are probably in such a state at the moment.

Presumably, if our Parliament makes a law in furtherance of its Constitution — which empowers it to make those laws for the peace, order and good government of Canada — it is acting in accordance with the rule of one of our superior laws, if not the supreme law, being the Constitution Act, 1867.

At the end of the "whereas" clauses, it states that we are also to be concerned with the rights and freedoms guaranteed by the Canadian Charter of Rights and Freedoms. This is the question that comes to my mind: If the Parliament of Canada, acting in the interest of peace, order and good Government of Canada, makes a law that comes into apparent conflict with the Charter of Rights and Freedoms in certain circumstances, in what sense are we acting in accordance with the rule of law and in what sense are we acting in contravention of the rule of law?

I want to make one other comment. I know I am not being very helpful here. As Senator Joyal indicated, one principal reason for the Charter of Rights and Freedoms is to protect the ordinary citizen from arbitrary actions by the state. My observation is, if what we arrive at through this bill does not act arbitrarily against the Charter of Rights and Freedoms, and it is in furtherance of our parliamentary right to peace, order and good government, then it is the Charter that would act as some sort of check to help us to avoid any arbitrariness. In that regard, do we then need a British procedure or another type of procedure? That country does not have a Charter of Rights and Freedoms under which to act to prevent arbitrary actions of the state against their citizens.

As I understand the little bit of history that I know, it is not accidental that the Constitution of the United States — and this is not precise — states that the Constitution's role is to preserve the life, liberty and pursuit of happiness of the individual. That is a paraphrase of the underlying principle of the U.S. national government. The underlying principle of the Constitution of Canada at the time of Confederation is not the same. The underlying principle was that the Parliament of Canada would act for the peace, order and good government of Canada, and they are not the same.

• (1530)

I put these comments on the record because this whole issue concerns me greatly. I have not done a great deal of work on constitutional law. Senator Beaudoin and Senator Kinsella will help me, but as we go through this bill, we must grapple with some fundamental issues in order to hit the proper balance as the Senate of Canada in exercising our sober second thought and our collective wisdom.

I would be very appreciative if the committee and this chamber could come to grips with some of these issues in reaching a final position on this bill.

Hon. Joan Fraser: Honourable senators, I cannot resist. As Senator Bryden was rising to speak, I was, in preparation for the work that lies ahead, reading the decision of the Supreme Court of Canada in the 1986 *Oakes* case. That was the case in which the Supreme Court set out the criteria that must be met if any law is to stand the Charter test under section 1.

Section 1 of the Charter of Rights and Freedoms guarantees the rights and freedoms set out in the Charter subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. In the *Oakes* case, the Supreme Court explained the tests that must be met by any bill, including the one we will be looking at. To establish that a limit is reasonable and demonstrably justified in a free and democratic society, two central criteria must be satisfied. First, the objective must be of sufficient importance to warrant overriding a constitutionally protected right or freedom. The standard, we are told, must be set high. Second, once a sufficiently significant objective is recognized, then the party invoking section 1 — the government — must show that the means chosen are reasonable and demonstrably justified.

To make that decision, one must check three components of the test. First, measures adopted must be carefully designed to achieve the objective in question. They must not be arbitrary, unfair or based on irrational considerations. Second, the means should impair as little as possible the right or freedom in question. Third, there must be a proportionality between the effects of the measures responsible for limiting the Charter right or freedom and the objective that has been identified as of sufficient importance.

The court goes on to say that the more severe the deleterious effects of a measure, the more important the objective must be if the measure is to be reasonable and demonstrably justified in a free and democratic society.

I thought it was perhaps worthwhile to recall those principles, honourable senators.

The Hon. the Speaker pro tempore: Honourable senators, it is my duty to inform the Senate that if Senator Carstairs speaks now, her speech will close the debate. Do other senators wish to speak?

Senator Carstairs: Let me begin by thanking senators for their participation and reminding them that we are voting this

afternoon not on the bill, not on the principle of bill, but simply on a motion to pre-study the bill.

Senator Kinsella, in his motion of amendment, which, by the way, has already passed, indicated that he wanted the breadth of the study to include issues of the protection of human rights and civil liberties. Quite frankly, the spirit of that amendment was one that I readily accepted when it was presented to me earlier today. The idea is that the committee will now go off and do its pre-study of the whole bill, but within that study, the committee will pay particular attention to the issues of human rights and civil liberties. With that, I am in full support. I hope the Senate will move in support of this motion.

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Carstairs, seconded by the Honourable Senator Milne, that —

An Hon. Senator: Dispense!

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

An Hon. Senator: On division.

Motion, as amended, adopted, on division.

BILL TO REMOVE CERTAIN DOUBTS REGARDING THE MEANING OF MARRIAGE

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Wiebe, for the second reading of Bill S-9, to remove certain doubts regarding the meaning of marriage.—(Honourable Senator Wiebe).

Hon. Jack Wiebe: Honourable senators, I rise today to speak in support of Bill S-9, to clarify the definition of marriage. If I am stopped after 15 minutes, I will sit down accordingly.

Bill S-9 will remove any doubt of ambiguity as to the historic and traditional meaning of marriage, which is a union of a man and a woman to the exclusion of all others. For myself, and I dare say the vast majority of Canadians, marriage is a spiritual as well as a physical union between a man and a woman. These are statements that are neither new nor are they earth-shattering, but it seems in this modern era that they bear repeating. I want to say again, it is my pleasure to take part in this debate on an issue that our modern world seems to have forgotten.

Without a union between a man and a woman, none of us would be here. The union of males and females of almost any living thing is required in order for the species to survive. Despite advances in science and reproductive technology, it basically can be no other way.

It goes without saying that marriage is not a brand new institution. From the very beginning of human life on earth, the union of male and female was recognized as necessary for the continuation of life, and this fact in itself is reason enough for its special designation.

The religions of the world can agree on very few things, but they can agree that the definition of marriage is a union between a man and a woman. Christians, Muslims, Hindus, Jews, Buddhists and those of other faiths of the world have reached consensus on this matter, and may I suggest so should our legislators.

I do not wish to mix church and state within this honourable chamber, but this is one area where I feel they are connected. Marriage has its roots in the religions for its ceremonies, in biology for the basis of family, and in the law for the clarity of meaning. In my own very strong religious beliefs, marriage is an institution established by God, and in some Christian and Orthodox traditions, it is considered a sacrament. The married state between a man and woman has long been recognized as a stable platform on which to build a stable family life. The biological nature of marriage is to have and raise children, building a new generation that enables Canada to have a strong and bright future. The ceremony of uniting a man and woman by vows, by commitment, by the recognition of this union by the Church and by the government is part of that very long tradition.

In recent years, there has been an emphasis on different relationships, and the traditional concept of what constitutes a marriage has been pushed into the background.

However, in June of 1999, the Department of Justice requested the Angus Reid polling company to conduct a poll. The poll found 67 per cent of Canadians supported the extension of benefits based on economic interdependency and need, but on the premise that the traditional definition of marriage as one man and one woman to the exclusion of all others remain the law of Canada. That is why Bill S-9, the clarification of the definition of marriage, is so important.

Honourable senators, we need a law that allows for a clear understanding that marriage is a coming together of a man and a woman to form a union. We need not allow the courts to misunderstand the law, and that is why clarifying the intent to follow nature and the traditions of our society becomes so very important.

This is why I agree with the recent decision of the British Columbia Supreme Court ruling by Justice Ian Pitfield that "politicians, not judges, should settle the matter" of the definition and the meaning of marriage. Judges are in a position to make

incremental changes to the law to reflect changes within society. However, recognizing same-sex marriages would be a major change, not an incremental one. Justice Pitfield said:

The change would affect a deep-rooted social and legal institution....A change of the nature proposed would create new issues of social concern.

The capacity to marry is within the federal government's constitutional jurisdiction, and it is the federal government alone that can enact legislation to clarify or redefine marriage or change the rules on the capacity to do so. We have an opportunity with this bill to clarify and maintain the definition of marriage.

It is important to note that marriage is not defined by federal statute, but there are two acts that touch upon the substance of the relationship. The first is the Modernization of Benefits and Obligations Act, 2000. Section 1.1 reads as follows:

For greater certainty, the amendments made by the Act do not affect the meaning of the word "marriage", that is, the lawful union of one man and one woman to the exclusion of all others.

The Marriage (Prohibited Degrees) Act of 1990 does not define marriage, but it states that relatives, brothers and sisters cannot marry.

The Senate should take this opportunity to clarify and ensure that there is a clear definition of marriage.

The *Random House Dictionary* defines marriage as:

...the social institution under which a man and a woman establish their decision to live as husband and wife by legal commitments, religious ceremony.

Merriam-Webster's Collegiate Dictionary, 10th edition, defines marriage as:

...the state of being married; the mutual relation of husband and wife; the institution whereby men and women are joined in a special kind of social and legal dependence for the purpose of founding and maintaining a family.

Gage Canadian Dictionary simply defines marriage as:

...married life; living together as husband and wife.

The legal definition that is still applicable today of a marriage relationship is the judicial decision from *Hyde v. Hyde and Woodmansee* in 1866. Let me briefly quote from that decision:

Marriage has been well said to be something more than a contract, either religious or civil — to be an institution. It creates mutual rights and obligations, as all contracts do, but beyond that it confers a status. The position or status of “husband” and “wife” is a recognized one throughout Christendom: The law of all Christian nations throw about that status a variety of legal incidents during the lives of the parties, and induce definite rights upon their offspring. What, then, is the nature of this institution as understood in Christendom? Its incidents vary in different countries, but what are its essential elements and invariable features? If it be of common acceptance and existence, it must needs have some pervading identity and universal basis. I conceive that marriage, as understood in Christendom, may for this purpose be defined as the voluntary union for life of one man and one woman, to the exclusion of all others.

For 135 years, the basic social unit of our society and its legal definition has not changed. It was the House of Lords that made that decision. Let our upper chamber maintain this important principle.

This is a case that will eventually end up in the Supreme Court. The Senate now has an opportunity to offer guidance and a clear definition of what marriage is.

Honourable senators, I heartily endorse Bill S-9. I urge all of us to respond to the judicial activism that is taking place in our courts. I urge your support for this particular legislation.

If another honourable senator wishes to speak, I will sit down, but it is my understanding that Senator Banks, who is unable to be with us today, wishes to speak to this motion.

On motion of Senator Wiebe, for Senator Banks, debate adjourned.

[Translation]

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I move that the Senate do now adjourn and that all items on the Order Paper and the Notice Paper that have not been reached stand in their place.

The Senate adjourned until Thursday, October 18, 2001, at 1:30 p.m.

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OFFICIAL REPORT
(HANSARD)

Thursday, October 18, 2001

THE HONOURABLE ROSE-MARIE LOSIER-COOL
SPEAKER *PRO TEMPORE*



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THE SENATE

Thursday, October 18, 2001

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker *pro tempore*: Honourable senators, I wish to draw your attention to the presence in the gallery of the six recipients of the 2001 Governor General's Awards in Commemoration of the Persons Case.

It is my pleasure to welcome you to the Senate of Canada.

[Translation]

Your commitment and perseverance are a source of great inspiration to our fellow Canadians. Welcome to the Senate of Canada!

[English]

SENATORS' STATEMENTS

PERSON'S DAY

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I rise today, Person's Day, to celebrate the role that Canadian women have played in our nation's history.

In 1929, the "Famous Five" — Emily Murphy, Henrietta Muir Edwards, Louise McKinney, Nellie McClung and Irene Parlby — succeeded in having women recognized in Canadian law as persons for the purpose of appointment to the Senate of Canada.

Person's Day falls within Women's History Month, an opportune time to contemplate the advances women have made around the world in their struggle to be accepted as full citizens of their own countries.

Honourable senators, a biographical encyclopaedia published in Toronto in 1886 summarized in eloquent terms the state of women in our nation. The title of the book was *A Cyclopedia of Canadian Biography, Being Chiefly Men of the Time*. Today, we all acknowledge that there are countless women who merit biographies, a testament to how far society has progressed since 1886.

Women have always played an important role in shaping society, perhaps the most important role in shaping society: that of raising our children. It is only relatively recently, however,

that we have expectations of women outside of the domestic sphere, and it is only recently that women have worked alongside men as full and equal partners.

Women have made much social progress, especially in North America. We have only to look at recent world events to appreciate the dichotomy that still defines women's lives around the world. At the present time, there is an American aircraft carrier in the Arabian Sea, the *Carl Vinson*. It is named after a congressman who adamantly opposed women serving in the military, and yet today, on that very ship, women are pilots and mechanical engineers. These women are fighting a regime that supports not only terrorism but denies Afghani women the right to be free and full participants in their own society.

Canada is fortunate to have many Canadian women pioneers who serve as our role models for future generations. Susanna Moodie and Catherine Parr-Trail chronicled the setbacks and rewards of settling a new Canada. Pauline Johnson became a famous voice for her Mohawk ancestors at a time when the world believed that Indians were a dying race. Their accomplishments were remarkable during a time in our country's history when survival alone was remarkable.

[Translation]

As we know, the Honourable Muriel McQueen Fergusson was the first woman to be appointed as Speaker of the Senate. That was in 1972. The first woman appointed to the Senate was the Honourable Cairine Wilson, in 1930.

[English]

In this month, celebrating women's contribution and accomplishments, and in this International Year of Volunteers, we should remember that over 75 per cent of Canadian women participate in volunteer activities. Our world would be a vastly different place without the personal contributions made by women who are motivated to better the lives of their families, their friends and their communities.

While the accomplishments of men have rightly been preserved in our history, sadly, the accomplishments of women have not. As Virginia Wolfe famously argued, we would never know if Shakespeare had a sister.

I do not believe that this month was reserved to honour only those women who succeeded against remarkable circumstances, but to honour all women who have experienced hidden and blatant discrimination, all women who were refused equal access, and all women who were denied basic freedoms enjoyed by their fellow citizens. Most of all, this is a time to honour the countless women who did succeed at overcoming their circumstances.

• (1340)

We can ensure that their lives, while unchronicled, were not inconsequential. They also need to be remembered.

AGRICULTURE AND FORESTRY

LOW COMMODITY PRICES—MOTION BY COMMITTEE CONDEMNING GOVERNMENT

Hon. David Tkachuk: Honourable senators, as many senators know, the agricultural community in Western Canada has been hard hit by low commodity prices. There are many reasons for this, the main one being that the subsidy policies of the governments in the European Community and the United States cause an oversupply of product; hence, low prices in the international marketplace.

Farm groups have come forward and been heard by the Standing Senate Committee on Agriculture and Forestry numerous times. They have outlined their problems, which are compounded by ever-increasing production costs, and also their solutions.

Today, we heard from three Manitoba farmers who have been to Ottawa a number of times to speak about their plight. They worked hard preparing their excellent submissions to the Senate committee.

Today, the committee, after hearing their testimony, saw fit to move a motion, which reads as follows:

That the Standing Senate Committee on Agriculture and Forestry condemn the federal Liberal government for its lack of action on the western farm crisis.

I am ecstatic that the motion was passed with little debate and enthusiastically received with only three dissenting votes in a committee of 12. I ask that all senators in this place wholeheartedly support the motion of the Standing Senate Committee on Agriculture and Forestry and show support to the committee for its strong action in this crisis.

GOVERNOR GENERAL

RECIPIENTS OF PERSONS CASE AWARDS

Hon. Vivienne Poy: Honourable senators, last year on this day, along with many of our colleagues, I had the privilege of attending the unveiling of the monument of the "Famous Five" here on Parliament Hill. As we all know, these five women made it possible for women to be appointed to the Senate of Canada. As many also noted at the time, the unveiling was significant because it was the first sculpture of Canadian women to grace Parliament Hill.

Since then, women and men from across Canada and around the world have visited the site and they have been inspired by the larger than life sculptures of these formidable women.

On every October 18, the Governor General's Awards to Commemorate the Persons Case are presented to five women in order to honour modern-day versions of the "Famous Five," women who work on behalf of other women in our community. Like the "Famous Five," these women have realized the power of the individual to make a difference and bring about change. It is important that on this day we highlight their achievements.

Linda Silver Dranoff and Kathleen Mahoney are both lawyers who champion the rights of women in the courts. Vera Danyluk and Lynda Sorenson use the political forum and community activism to effect change. As a dedicated health care professional, Madeleine Gaudet works to improve the working conditions of nurses and other working women. Finally, Anila Umar, who received the youth award, represents the future. While pursuing two degrees, she acted as an advocate for the rights of children as well as of minority and immigrant women.

On this day, as we celebrate the Persons Case, I congratulate the awards winners whose achievements mark another step toward equality for women in Canada while giving the daughters of Canada a future of unprecedented opportunities.

MR. JEAN BÉLIVEAU THE HONOURABLE E. LEO KOLBER

CONGRATULATIONS ON RECEIVING DOCTORAL DEGREES FROM SAINT MARY'S UNIVERSITY

Hon. Wilfred P. Moore: Honourable senators, I wish to advise that on October 4, 2001, Jean Béliveau was awarded an Honorary Degree of Doctor of Civil Law by Saint Mary's University of Halifax, Nova Scotia at its fall convocation in recognition of his stellar contribution to our national game during his all-star career as a member of the Montreal Canadiens and for his unselfish community work.

In his citation, Archbishop Austin Burke said:

Mr. Béliveau's life has been a model for others on the ice and off the ice.

Dr. Béliveau joins another esteemed recent graduate of my alma mater, our colleague Senator E. Leo Kolber, who was awarded an Honorary Degree of Doctor of Laws by Saint Mary's at its convocation held on May 15, 2001, in recognition of his leadership in business and politics, including spearheading the recent changes to our capital gains tax regime, and for his tireless and generous community work, particularly on behalf of the Jewish General Hospital in Montreal.

We commend Saint Mary's University for bestowing these most deserved recognitions, and we congratulate Drs. Béliveau and Kolber, two of the finest captains to ever compete respectively in the rinks and boardrooms of Canada.

CAUSE AGAINST TERRORISM

Hon. B. Alasdair Graham: Honourable senators, yesterday, I watched Operation Apollo set sail from Halifax Harbour, as did thousands of Nova Scotians and Canadians of all ages and walks of life. As HMC ships *Iroquois*, *Charlottetown* and *Preserver* sailed toward the open water, I reflected on the great naval tradition of this proud point of departure.

The shores were lined with thousands of people who came, as they did in past conflicts, to say goodbye. Then, as now, there were speeches, flags and, indeed, there were tears. Then, as now, there was resolution, quiet courage and the kind of strength always shown by Canadians in times of crisis. Then, as now, there was the overwhelming sense that freedom and our way of life must be defended, that a new kind of war was unfolding, that the moral depravity of terrorism must be eradicated, no matter what the price.

As I watched the many family members wearing "invisible ribbons" as I am wearing today — which are clear plastic bows tied with the Canadian flag — I thought of their brave struggle with the uncertainties of the future. I thought of their quiet acceptance of the efforts that will be needed to safeguard and protect our way of life. Those who are left alone to keep the spirit alive will wear these ribbons until their loved ones come home.

The children will be told stories of a time of honour. They will be told about a new chapter in the story of the strength and conviction of the Canadian people over the centuries — these young children who we all had always hoped would have the good fortune not to know war.

We must continue to work overtime in the diplomatic corridors, honourable senators, with the excellence of our international legal arsenals and with the deep-rooted multilateralist instinct which is part of the Canadian psyche. We must work with conviction and with courage to put an end to the grave sin of indifference, to the awful cesspools of poverty and oppression which haunt too many peoples and too many countries in our time.

I believe that we will, as a nation, go beyond all odds and beyond all expectations. We will fight with great honour and valour on all fronts. We will give what is needed so that our children and our children's children may live in peace.

FAMOUS FIVE AND PERSONS CASE

Hon. Joyce Fairbairn: Honourable senators, as a woman, an Albertan and a senator, I could not let this day pass without recalling the memory of the "Famous Five" from Alberta — Henrietta Muir Edwards, Nellie McClung, Emily Murphy, Irene Parlby and Louise McKinney — who, in 1929, had the courage, stamina and spunk to go right to the top to change our history so that women would, by right, be judged capable of becoming senators of Canada.

It is with great joy that we look at the "Famous Five" when we go out the door of the Senate every day. I do not think there has

been a day when there have not been Canadians there shaking their hands, sitting in their chair and touching the tea cups. It has been a great occasion to have the "Famous Five" recognized for all to see on Parliament Hill.

• (1350)

I offer my congratulations, as other senators have, to their successors, who will be honoured today at Government House with the Persons Case awards, which commemorates the place these pioneers from Alberta made in history. They changed the lives and the aspirations of women throughout the years. There is no doubt in my mind that I would never have been able to walk through the doors of this chamber had it not been for the "Famous Five."

DISTINGUISHED VISITOR IN THE GALLERY

The Hon. the Speaker *pro tempore*: Honourable senators, I wish to draw your attention to the presence in the gallery of a former colleague, the Honourable Senator Keith Davey. Welcome back to the Senate.

Hon. Senators: Hear, hear!

GOVERNOR GENERAL

RECIPIENTS OF PERSONS CASE AWARDS

Hon. Sheila Finestone: Honourable senators, I wish to add a word or two to the very warm tributes of memory and remembrance given by Senators Fairbairn and Poy.

This is a remarkable time in the history of the evolution of women in our society. We have again today a number of women whom we will honour, who bring witness to the fact that it is more than time for the role and place of women in our society to be represented in equal measure and as full partners with our men.

So it is that the "Famous Five," who laid the groundwork that allows women to be in this chamber today, have following in their steps these outstanding women: Linda Silver Dranoff, Kathleen Mahoney, Madeleine Gaudet, Anila Umar, and, of course, two of my friends, Lynda Sorenson and Vera Danyluk.

These women are the successors to the five women portrayed in the bronze sculpture we see outside this building. As Senator Fairbairn said, people sit down on the chairs, pretend to have a cup of tea, and enjoy the thought of equality for women. The "Famous Five" really worked for their society, whether it was for men, women or children. They demonstrated that women can move in their careers anywhere they so desire. We are here to acknowledge the fine work done by those wonderful women in 1929, when I was practically not even a person.

History has changed, honourable senators. Are we not all the better for it? I wish to congratulate once again the award recipients.

[Translation]

ROUTINE PROCEEDINGS

CANADA SHIPPING BILL, 2001

REPORT OF COMMITTEE

Hon. Lise Bacon, Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Thursday, October 18, 2001

The Standing Senate Committee on Transport and Communications has the honour to present its

SIXTH REPORT

Your Committee, to which was referred Bill C-14, An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts, has, in obedience to the Order of Reference of Wednesday, May 30, 2001, examined the said Bill and now reports the same without amendment, but with observations which are appended to this report.

Respectfully submitted,

LISE BACON
Chair

(For text of the observations, see today's Journals of the Senate, Appendix to Report, p. 853.)

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

On motion of Senator Callbeck, third reading of the bill placed on the Orders of the Day for consideration at the next sitting of the Senate.

[English]

AGRICULTURE AND FORESTRY

FARMING CRISIS IN MANITOBA AND WESTERN CANADA— REPORT RECOMMENDING COMMITTEE OF THE WHOLE TO HEAR MINISTER OF AGRICULTURE AND AGRI-FOOD

Hon. Leonard J. Gustafson, Chair of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Thursday, October 18, 2001

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

FIFTH REPORT

Your Committee, which was authorized by the Senate on March 20, 2001 to examine international trade in

agricultural and agri-food products, and short-term and long-term measures for the health of the agricultural and the agri-food industry in all regions of Canada, respectfully reports that the Minister of Agriculture cancelled his appearance today before your Committee, and therefore the Committee recommends that a Committee of the Whole be struck at the earliest opportunity to hear from the Minister of Agriculture on the crisis facing farmers in Manitoba and Western Canada.

Respectfully submitted,

LEONARD J. GUSTAFSON
Chair

The Hon. the Speaker pro tempore: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Gustafson, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

QUESTION PERIOD

CITIZENSHIP AND IMMIGRATION

MEMORANDUM OF CHAIRMAN OF IMMIGRATION AND REFUGEE BOARD REGARDING IMMIGRATION AND REFUGEE PROTECTION BILL

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, can the minister confirm that the Chairman of the Immigration and Refugee Board has amended his memorandum regarding candidacies for the position of a division that has yet to be approved by Parliament, in accordance with what she told us yesterday was to be done? If that has been done, can she table or at least let us have a copy of that revised memorandum?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I have to tell the Honourable Senator Lynch-Staunton that I do not have a copy of that circular today. I will do everything in my power to have it for him when we sit next.

HEALTH

PURCHASE OF GENERIC ANTI-ANTHRAX DRUG— BREACH OF PATENT ACT—TESTS TO DETERMINE SAFETY

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is to the Leader of the Government in the Senate.

Can the minister confirm that Health Canada has ordered 900,000 doses of the anti-anthrax generic drug called Cipro from Apotex, which is Canada's largest maker of generic pharmaceuticals?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. Indeed, I can confirm to all honourable senators that this drug has been purchased. Every attempt was made to get the drug from its primary manufacturer, Bayer. Unfortunately, Bayer did not have enough available. Additional supplies have been ordered from Apotex, the reason being that we all recognize we are living in extraordinary times, and extraordinary times require extraordinary action.

• (1400)

Senator Kinsella: Honourable senators, if it is true that Bayer AG still holds the patent for that drug, then Bayer is the only legal vendor of Cipro in Canada, as its patent on the antibiotic has not expired. What authority is the Government of Canada relying upon to breach the drug patent?

Senator Carstairs: The authority that the government is acting upon is the emergency situation in which we are all endangered, and the possible, and hopefully not probable, exposure that Canadians may have to anthrax.

The situation, honourable senators, is that Cipro has been identified as, perhaps, the most effective antibiotic, although not the only one, that can deal effectively with anthrax exposure. Many other antibiotics, such as ampicillin and erythromycin, can also be used to deal with this particular disease, but the drug in question has been identified by medical specialists as the one most likely to be effective in the treatment.

Senator Kinsella: Honourable senators, two avenues of questioning must be explored. First, the minister has just stated that the Cipro antibiotic is the "most likely to be effective." What testing has Health Canada done to determine that this drug is safe to be used in Canada? Indeed, has it done any testing at all on the drug?

Senator Carstairs: My understanding is that the approval process for this drug was fast-tracked and that some preliminary testing was done; but, no, it has not gone through all of the normal safeguards because of the quick processes it has gone through.

Honourable senators, I think that everyone of us in this room, and perhaps across Canada, hope that this drug never has to be used.

Senator Lynch-Staunton: That is not the question.

Senator Carstairs: It is being stockpiled. It may never be used, but since it has been identified by the U.S. Food and Drug Agency, it was considered necessary to have it on hand should an emergency require it.

Hon. David Tkachuk: Honourable senators, has the government declared a state of emergency?

Senator Carstairs: No. As the honourable senator well knows, the government has not declared a state of emergency. A

state of emergency would, unfortunately, have to be called if a great many Canadians were exposed to anthrax. I do not think we want to wait until a number of Canadians have been exposed to anthrax to have the drug of choice on hand in adequate supply.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I completely agree with the minister, but Canadians want to be satisfied that whatever drug they get, whether from the originator or the copycat, is safe. Can the minister tell us when Health Canada started testing the generic drug?

Senator Carstairs: As the honourable senator probably knows, I cannot give him an exact date. However, I can assure him that not only the tests that have been done to date in this country but tests which have been done in other food and drug administrations have been carefully analyzed by the Government of Canada. It has been determined that this is a safe drug.

Senator Lynch-Staunton: That is not a satisfactory answer at all because many times the Government of Canada refuses to accept FDA tests. It sounds as if the government panicked a little and said, "We have to satisfy Canadians that we have enough drugs on the shelf, so let's get to where we can claim that we have the equivalent." There is no proof that this equivalent has been submitted to the rigid testing that Health Canada always gives to products before they are allowed to be marketed.

Senator Carstairs: With the greatest of respect to the Leader of the Opposition in the Senate, the government is trying to avoid panic — not create it, but avoid it.

Senator Lynch-Staunton: The government is breaking the law.

Senator Carstairs: We are not talking about a disease such as bronchitis that can be cured with proper medical treatment and proper drugs. We are talking about a life-threatening disease. A life-threatening disease requires all the up-to-date treatment that is currently available.

Senator Lynch-Staunton: And approved. This drug has not been approved.

Senator Carstairs: Do you want it approved after they are dead?

Senator Lynch-Staunton: That is not the point. You might kill them if you give them the wrong thing.

Senator Kinsella: On the one hand, honourable senators, these are health issues that must be studied. The other issue is that the minister said there is an emergency, and, therefore, patent laws can be broken.

Is it not true, minister, that the 1993 Patent Act regarding drugs provides that the patent on a drug can be overridden if the drug is to be used in response to a declared emergency? There can be a derogation from that obligation.

The question I have is similar to that of Senator Tkachuk. Pursuant to the provisions of the 1993 Patent Act regarding drugs, what conditions is the government relying upon to determine that an emergency exists, and has an emergency been declared or testified to within the meaning of the Patent Act?

Senator Carstairs: If the senator listens to his own question, he will have his own answer. These pills will not be distributed until such time as there is an emergency.

Senator Lynch-Staunton: They are being bought.

Senator Carstairs: It does not mean they are being distributed; it does not mean they are being used. Is my honourable friend suggesting that we wait until we have an emergency and then break the patent law and then order the drug manufacturer to produce the drugs? Or is he suggesting that we should have the drugs now, exercise the emergency when the emergency occurs, and be immediately able to offer treatment?

Senator Lynch-Staunton: You have already broken the law.

Senator Kinsella: Honourable senators, it speaks volumes that senators on the other side are applauding with great clarity a statement that was made by the minister when the issue, to which the minister has not responded, is this: What authority does the government have to purchase 900,000 pills that are under a patent? The government is breaking the patent. It is illegal. The government is breaking the law. If there is a provision in the law to derogate from the law, I am asking the government, through its minister here, to tell us what is the law that permits it to break the law.

Senator Carstairs: The honourable senator himself indicated the section of the Patent Act that allows an emergency to be invoked —

Senator Lynch-Staunton: You said there was no emergency.

Senator Carstairs: — and then allows the Patent Act to be overridden.

Senator Lynch-Staunton: You said there was no emergency.

Senator Carstairs: I am suggesting to honourable senators across the way to use a little bit of common sense. A little bit of common sense would indicate that we want to have the drugs on hand. If there is an emergency —

Senator Lynch-Staunton: The drugs have not been tested.

Senator Carstairs: — then the emergency can be declared and the drugs can be distributed immediately. If no emergency is called, the drugs will not be used. There will be no patent violation.

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—PURCHASE OF EH-101 CORMORANT HELICOPTERS

Hon. Michael A. Meighen: Honourable senators, perhaps I can turn to another area of government obfuscation.

Can the minister confirm information I have received that at least two new EH-101 search and rescue helicopters have now reached their base in Comox?

Senator Lynch-Staunton: Quietly.

Senator Meighen: That is my question. Why is there no publicity or no announcement in the face of this long-awaited good news?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I can confirm that the two helicopters have arrived. They are a series of a group of aircraft that were ordered some time ago.

Some Hon. Senators: Hear, hear!

Senator Carstairs: These aircraft will provide up-to-date search and rescue activities in this great country of ours. I would suggest that the great fanfare was made the day it was announced that they would be purchased.

• (1410)

Senator Meighen: As I recall, some people did not like that fanfare very much.

Be that as it may, honourable senators, perhaps the leader could also help me with one aspect of this matter. My information is that five of the EH-101 Cormorants have been sitting in Italy, ready for delivery since February or March of this year. If that is so, why has the government not taken delivery? What is the government waiting for in order to do so? Perhaps it is to assign some of these new helicopters to one or more of the frigates that left Halifax yesterday in the place of our aging and unreliable Sea Kings.

Senator Carstairs: First, I must say to the honourable senator that he is talking apples and oranges. The Cormorants that are being brought over here for search and rescue have been equipped with search and rescue capabilities and not the wartime capabilities for which Sea Kings have been equipped. It would not be possible with the present equipment of the Cormorants delivered to put them on the frigates that are going into the Persian Gulf.

In terms of the ones that are sitting in Italy, it is my understanding that they are still undergoing testing. When that testing is completed, they will be delivered.

Senator Meighen: I wish to thank the minister for that answer. I agree with the Leader of the Government that the equipment is different. However, there might well be a search and rescue mission to be effected in the Gulf with respect to our personnel serving there.

Senator Carstairs: With respect, Honourable Senator Meighen, the Sea King has not only a search and rescue but also a military usage, unlike the present Cormorants that have been ordered.

Senator Lynch-Staunton: Who will rescue the Sea Kings?

HEALTH

SAFETY OF LIVESTOCK ANTIBIOTICS

Hon. Mira Spivak: Honourable senators, for quite some time Canadians have been assured that the antibiotics that are fed to animals to prevent them from disease, in particular, to livestock, are safe because they dissipate before the meat is being consumed. A new study, which was reported today on the front page of the *National Post*, disputes that and says that the health of millions of people and the lives of thousands can be at risk. They suggest that the antibiotics used in beef should be banned immediately. That is what one of the doctors at Tufts University, in the school of medicine in Boston, said. This study was published in the *New England Journal of Medicine*, which, as all honourable senators know, is a prestigious publication.

Will this alert the government, through the honourable leader, to review the policy of feeding antibiotics to beef cattle and other livestock?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for her question. She is correct. This study has certainly brought to light new information. It is a prestigious journal. I do not think the Department of Agriculture and/or Health Canada requires me to bring it to their attention but I will do so anyway, on behalf of the honourable senator.

Senator Spivak: Honourable senators, it might be interesting to look to see what the links are with regard to water. There is some suggestion that around hog operations, drug-resistant bacteria created by feeding antibiotics to livestock are also contaminating the water. This is a serious question and I would be grateful for the minister's assistance.

Senator Carstairs: The Honourable Senator Spivak is correct. There is a great deal of legitimate concern, particularly in our home province, about the runoff from hog operations in that province. If it can be shown that antibiotic residue that has been fed to these animals is also showing up in the water, it would be a critical issue. Thus, I will add that matter to my ongoing inquiry to the minister.

ORDERS OF THE DAY

THE SENATE

COMMITTEE OF THE WHOLE—REPLACEMENT OF
SEA KING HELICOPTERS—APPEARANCE OF OFFICIALS ON
PROCUREMENT PROCESS—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Robichaud, P.C., seconded by the Honourable Senator Finestone, P.C.:

That at 3:00 p.m. on Thursday, October 4, 2001, the Senate resolve itself into a Committee of the Whole in order to receive officials from the Department of National Defence and the Department of Public Works and Government Services for a briefing on the procurement process for maritime helicopters.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I rise today to discuss the Committee of the Whole that will look at procurement process for the new fleet of Maritime helicopters, particularly appropriate in light of Senator Meighen's questions earlier today.

On May 31 of this year, at page 987 of the *Debates of the Senate*, the Leader of the Opposition asked the following in this chamber:

Would the Leader of the Government consider holding a briefing in the chamber, going into Committee of the Whole, to hear an explanation of how this whole process is being designed and where it is expected to lead?

He went on to say:

Perhaps if we had a full briefing here or elsewhere...with the personnel who can answer our questions, we could come to a positive conclusion shared by both sides.

The government was pleased to accommodate the honourable senator's request for a briefing on the procurement process to take place in the Committee of the Whole and I announced that agreement when the Senate sat on June 5. As Senator Robichaud indicated on September 25, we fully intend to have a Committee of the Whole as soon as the government and opposition leadership can agree on a date. We offered to proceed with a briefing on October 4, which is the date in the original motion, but that date did not meet with the agreement of the opposition.

MOTION IN AMENDMENT

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I wish to inform you that the leadership on both sides have agreed to a date, namely, Tuesday, October 30, 2001. Therefore, in amendment, I move:

That the motion be amended by striking out the words "Thursday, October 4, 2001" and replacing them with the following:

Tuesday, October 30, 2001.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Hon. Senators: Agreed.

Motion in amendment adopted.

On motion of Senator Lynch-Staunton, debate adjourned.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SIXTH REPORT OF COMMITTEE ADOPTED AS AMENDED

The Senate proceeded to consideration of the sixth report of the Standing Committee on Rules, Procedures and the Rights of Parliament (formerly Standing Committee on Privileges, Standing Rules and Orders) (study of the structure of Senate Committees—extension of reporting date) presented in the Senate on October 4, 2001.—(*Honourable Senator Austin, P.C.*).

Hon. Jack Austin moved the adoption of this report.

He said: Honourable senators, the Standing Committee on Rules, Procedures and the Rights of Parliament has been working diligently to discharge the mandate given by this house to deal with the organization and operation of committees. During the summer recess, we took two full days to consider a number of items that were raised by colleagues in the committee.

• (1420)

I recently had a discussion with the deputy chair, Senator Stratton, about the number of meetings we would have to hold in order to meet the October 31 deadline given to the committee for its report. We have agreed that additional time would be valuable to the committee, in particular because of the heavy agenda involving other items that are now before this house and the need for the opposition side to be able to fully participate.

MOTION IN AMENDMENT

Hon. Jack Austin: While the work of this committee is important, even in my view urgent, it is not time-critical. Therefore, with leave, I move:

That the words "Friday, February 15, 2002" in the motion before us be deleted and the following substituted therefor: "Friday, March 29, 2002."

The Hon. the Speaker pro tempore: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators to adopt the motion in amendment?

Hon. Senators: Agreed.

Motion in amendment adopted.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators to adopt the report as amended?

Hon. Senators: Agreed.

Report adopted as amended.

DEFENCE AND SECURITY

BUDGET—REPORT OF COMMITTEE—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Kenny, seconded by the Honourable Senator Moore, for the adoption of the second report of the Standing Senate Committee on Defence and Security (budget—release of additional funds) presented in the Senate on September 25, 2001.—(*Honourable Senator Stratton*).

Hon. Colin Kenny: Honourable senators, may I have leave to ask a question of Senator Stratton?

The Hon. the Speaker pro tempore: Is leave granted for Senator Kenny to ask a question of Senator Stratton?

Hon. Senators: Agreed.

Senator Kenny: Honourable senators, this item has been on the Order Paper for many days. Would Senator Stratton tell us if he is waiting for someone else to speak to it and, if not, why it is being held up?

Hon. Terry Stratton: Honourable senators, I think Senator Kenny understands the situation. It is simply that there is concern on both sides of the chamber about the undue expense of \$95,000 to define the role and function of the committee. As a result, the matter on the change in name is being delayed until that issue is resolved.

The real issue is that we are asking the committee for a work plan to be carried out here in Ottawa, what it will be doing and what its mandate will be, prior to authorizing expenditures for travel. Both issues are tied together.

Senator Kenny: Honourable senators, my question is: Does the honourable senator have any other speakers for whom he is holding up this order?

Senator Stratton: Yes, we will.

Senator Kenny: Could the honourable senator advise us as to who are those speakers, please?

Senator Stratton: Not as yet, no.

Order stands.

HUMAN RIGHTS*[Translation]***COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT**

Hon. A. Raynell Andreychuk, pursuant to notice of October 17, 2001, moved:

That the date for the presentation by the Standing Senate Committee on Human Rights of the final report on its study into issues relating to human rights, and, *inter alia*, the machinery of government dealing with Canada's international and national human rights obligations, which was authorized by the Senate on May 10, 2001, be extended to Friday, December 21, 2001; and

That the Committee be permitted, notwithstanding the usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Chamber.

Motion agreed to.

ADJOURNMENT

Leave having been given to revert to Notices of Motions:

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That, when the Senate adjourns today, it do stand adjourned until Tuesday next, October 23, 2001, at 2 p.m.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, October 23, 2001, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
 (1st Session, 37th Parliament)
Thursday, October 18, 2001

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act respecting marine liability, and to validate certain by-laws and regulations	01/01/31	01/01/31	—	—	—	01/01/31	01/05/10	6/01
S-3	An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts	01/01/31	01/02/07	Transport and Communications	01/05/03 amended 01/05/09	3	01/05/10	01/06/14	13/01
S-4	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	01/01/31	01/02/07	Legal and Constitutional Affairs	01/03/29	0 + 1 at 3rd	01/04/26	01/05/10	4/01
S-5	An Act to amend the Blue Water Bridge Authority Act	01/01/31	01/02/07	Transport and Communications	01/03/01	0	01/03/12	01/05/10	3/01
S-11	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	01/02/06	01/02/21	Banking, Trade and Commerce	01/04/05	17 + 1 at 3rd	01/05/02 Senate agreed to Commons amendments 01/06/12	01/06/14	14/01
S-16	An Act to amend the Proceeds of Crime (Money Laundering) Act	01/02/20	01/03/01	Banking, Trade and Commerce	01/03/22	0	01/04/04	01/06/14	12/01
S-17	An Act to amend the Patent Act	01/02/20	01/03/12	Banking, Trade and Commerce	01/04/05	0	01/05/01	01/06/14	10/01
S-23	An Act to amend the Customs Act and to make related amendments to other Acts	01/03/22	01/05/03	National Finance	01/05/17	11 + 2 at 3rd (01/06/06)	01/06/07		
S-24	An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence	01/03/27	01/04/05	Aboriginal Peoples	01/05/10	0	01/05/15	01/06/14	8/01
S-31	An Act to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	01/09/19	01/10/17	Banking, Trade and Commerce					

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-33	An Act to amend the Carriage by Air Act	01/09/25	01/10/16	Transport and Communications					
S-34	An Act respecting royal assent to bills passed by the Houses of Parliament	01/10/02	01/10/04	Rules, Procedures and the Rights of Parliament					

**GOVERNMENT BILLS
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Employment Insurance Act and the Employment Insurance (Fishing) Regulations	01/04/05	01/04/24	Social Affairs, Science and Technology	01/05/03	0	01/05/09	01/05/10	5/01
C-3	An Act to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act	01/05/02	01/05/10	Energy, the Environment and Natural Resources	01/06/06	0	01/06/12	01/06/14	18/01
C-4	An Act to establish a foundation to fund sustainable development technology	01/04/24	01/05/02	Energy, the Environment and Natural Resources	01/06/06	0	01/06/14	01/06/14	23/01
C-6	An Act to amend the International Boundary Waters Treaty Act	01/10/03							
C-7	An Act in respect of criminal justice for young persons and to amend and repeal other Acts	01/05/30	01/09/25	Legal and Constitutional Affairs					
C-8	An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions	01/04/03	01/04/25	Banking, Trade and Commerce	01/05/31	0	01/06/06	01/06/14	9/01
C-9	An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act	01/05/02	01/05/09	Legal and Constitutional Affairs	01/06/07	0	01/06/13	01/06/14	21/01
C-11	An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger	01/06/14	01/09/27	Social Affairs, Science and Technology					
C-12	An Act to amend the Judges Act and to amend another Act in consequence	01/04/24	01/05/09	Legal and Constitutional Affairs	01/05/17	0	01/05/29	01/06/14	7/01
C-13	An Act to amend the Excise Tax Act	01/04/24	01/05/01	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	15/01
C-14	An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts	01/05/15	01/05/30	Transport and Communications	01/10/18	0			
C-17	An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act	01/05/15	01/05/30	National Finance	01/06/07	0	01/06/11	01/06/14	11/01
C-18	An Act to amend the Federal-Provincial Fiscal Arrangements Act	01/05/09	01/05/31	National Finance	01/06/12	0	01/06/12	01/06/14	19/01
C-20	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	1/01
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	2/01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-22	An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act	01/05/15	01/05/30	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	17/01
C-24	An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts	01/06/14	01/09/26	Legal and Constitutional Affairs					
C-25	An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts	01/06/12	01/06/12	Agriculture and Forestry	01/06/13	0	01/06/14	01/06/14	22/01
C-26	An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco	01/05/15	01/05/17	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	16/01
C-28	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	01/06/11	01/06/12	—	—	—	01/06/13	01/06/14	20/01
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/06/13	01/06/14	—	—	—	01/06/14	01/06/14	24/01

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
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SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5			
S-7	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	01/01/31	01/02/07	Transport and Communications	01/06/05	0	01/06/07		
S-8	An Act to maintain the principles relating to the role of the Senate as established by the Constitution of Canada (Sen. Joyal, P.C.)	01/01/31	01/05/09	Rules, Procedures and the Rights of Parliament					
S-9	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	01/01/31							
S-10	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Gratstein)	01/01/31	01/02/08	—	—	—	01/02/08		
S-12	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	01/02/07	01/03/27	Social Affairs, Science and Technology					

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-13	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	01/02/07	01/05/02	Rules, Procedures and the Rights of Parliament (Committee discharged from consideration—Bill withdrawn 01/10/02)					
S-14	An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	01/02/07	01/02/20	Social Affairs, Science and Technology	01/04/26	0	01/05/01		
S-15	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	01/02/07	01/03/01	Energy, the Environment and Natural Resources	01/05/10	0	01/05/15	Bill withdrawn pursuant to Commons Speaker's Ruling 01/06/12	
S-18	An Act to Amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	01/02/20	01/04/24	Social Affairs, Science and Technology (withdrawn) 01/05/10 Energy, the Environment and Natural Resources					
S-19	An Act to amend the Canada Transportation Act (Sen. Kirby)	01/02/21	01/05/17	Transport and Communications					
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	01/03/12							
S-21	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	01/03/13		Subject-matter 01/04/26 Social Affairs, Science and Technology					
S-22	An Act to provide for the recognition of the Canadian Horse as the national horse of Canada (Sen. Murray, P.C.)	01/03/21	01/06/11	Agriculture and Forestry					
S-26	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	01/05/02	01/06/05	Transport and Communications					
S-29	An Act to amend the Broadcasting Act (review of decisions) (Sen. Gauthier)	01/06/11							
S-30	An Act to amend the Canada Corporations Act (corporations sole) (Sen. Atkins)	01/06/12							
S-32	An Act to amend the Official Languages Act (fostering of English and French) (Sen. Gauthier)	01/09/19							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (Sen. Kroft)	01/03/29	01/04/04	Legal and Constitutional Affairs	01/04/26	1	01/05/02	01/06/14	
S-27	An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	
S-28	An Act to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	

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(HANSARD)

Tuesday, October 23, 2001

THE HONOURABLE DAN HAYS
SPEAKER



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(Daily index of proceedings appears at back of this issue.)

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THE SENATE

Tuesday, October 23, 2001

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

NOVA SCOTIA

HALIFAX—DALHOUSIE UNIVERSITY RESEARCH CHAIR IN AUTISM

Hon. Donald H. Oliver: Honourable senators, I rise to call your attention to a Canadian first. My wife and I were honoured yesterday to attend, in Halifax, the official launch of the first ever Canadian Chair in Autism. Senators will know that autism is a developmental disability of the brain that affects one to two of every thousand births. Its causes are not known.

Through the vision, kindness and generosity of Jack and Joan Craig of Halifax, the chair is now officially up and running. The endowment provided by Joan and Jack Craig led to a cooperative arrangement between the Izaak Walton Killam Health Centre for Children in Halifax and Dalhousie University. The first director, Dr. Susan Bryson, has been installed. Dr. Bryson will be a member of Dalhousie University's faculty of medicine and the IWK Health Centre's pediatric department. The inaugural public lecture will be given this Thursday evening in Halifax.

Honourable senators, I suspect that we all know a family with an autistic child. People with autism may have problems with social development, such as difficulties in forming relationships; communication, including use of language; and behaviour, particularly a dislike for changes in routine.

Autism was once thought to be a life sentence. Today, major improvements can be made in nearly 90 per cent of the population with appropriate intervention, treatment and education. This is a very serious disease about which very little is known. It is sometimes referred to as "infant autism" or "autistic disorder."

Treatment of the disorder is very difficult and prolonged. Parents, teachers and therapists work together in coordinated efforts to encourage social adjustment and speech development in the child.

Thanks to the establishment of this chair, the problems and treatment of autism can now come out of the closet. Present at the conference announcing the launch of the chair were the provincial Minister of Health, the Honourable Jamie Muir, and the President of Dalhousie University, Dr. Tom Traves, who spoke of their support for this initiative. They also both praised

the vision and perseverance of Joan and Jack Craig. All speakers, including Dr. MacDonald, the Dean of Medicine, thanked the Craigs for their philanthropy and for their generosity not only to the visual and performing arts but also in the health sciences.

I had the opportunity to speak to the new director, Dr. Sue Bryson, who indicated that to her knowledge the endowed chair in autism founded with money from the Craig Foundation is probably the first chair of its kind in North America. This is truly a first.

Honourable senators, I consider this to be a magnificent achievement that continues to point to the vision and generosity of Canadians. At a time when so many people in the world are nervous, afraid and worried as a result of September 11, it was a delightful experience to attend the launch of something with the potential to lead to scientific discoveries that will ultimately make life better for a number of children and families who have been suffering too long because of a misunderstanding of autism.

MENTAL HEALTH ISSUES

Hon. Vivienne Poy: Honourable senators, last week I received a letter from a constituent whose personal experiences with schizophrenia led him to believe that not enough public attention is being paid to this condition. He requested that I bring the subject to the attention of the Senate. He said that everyone is afraid to talk about mental illness, particularly schizophrenia, and, therefore, research and support for mental illness always lags far behind that for other diseases.

In support of all those affected, I should like to speak about mental health issues and the toll that mental illness takes on individuals, families, the workplace and our society. Mental Illness Awareness Week was October 7 to 13.

Honourable senators, what do we know about mental illness? First, we know that it is common. According to the Canadian Mental Health Association, one in five adult Canadians will suffer from a mental disorder at some time in their lives. While schizophrenia affects 1 in 100 individuals, approximately 10 per cent of Canadians suffer from depression.

We know that mental illness is costly. According to a report entitled "The Unheralded Business Crisis in Canada: Depression at Work" published last year by the Business and Economic Round Table on Mental Health, the economic costs of mental illness in Canada today are equivalent to 14 per cent of Canada's net operating profits. In monetary terms, depression alone accounts for \$60 billion in lost revenue to the NAFTA economy, mostly due to reduced productivity.

In the wake of the tragedy of September 11, honourable senators, levels of depression and anxiety are rising.

Mental illness affects not only individuals but also members of their families and associates. If left untreated, mentally ill patients can bring havoc to their communities.

No one is immune to mental illness. Psychiatrists have only begun to understand the complex interaction of genetic, environmental and physiological factors that lead to mental illness. As such, the disease can often strike at random, seemingly without warning.

We know that in the majority of cases mental illness is treatable. Early detection, diagnosis and proper treatment could save many people from needless suffering, which would also increase productivity and lower replacement and disability costs.

• (1410)

Honourable senators, it is in the interests of government business and all individuals to end the silence around mental illness and provide the necessary financial support for appropriate and effective treatment. It is the right of all members of our society to have the opportunity to lead productive and healthy lives.

CONFLICT IN SUDAN

Hon. Lois M. Wilson: Honourable senators, during the last week of the Senate in June, I was in Sudan and Kenya, and this fall, when the Senate reconvened, I attended the IGAD Partners Forum core group meeting on Sudan in Oslo, Norway. Consequently, I have missed a number of Senate sittings.

Over a period of time, it has become obvious that neither of the belligerents are seriously interested in pursuing peace negotiations by making compromises because they both think they can win militarily, and they continue on in this course. It has also become obvious that brokering peace between two parties that have not moved in their positions in the last two years is a frustrating cause to support. Nevertheless, the core countries — the U.K., Norway, Canada, the United States, Italy and the Netherlands — had a full discussion of the options in light of the intransigence of the parties to the conflict. They decided to continue supporting the IGAD — the Intergovernmental Authority on Development — the Horn countries charged with brokering peace through the Kenyan Secretariat, but to also develop complementary initiatives, either bilaterally or with NGOs, that would enhance the prospect for peace.

This opens the way for Canada to develop creative initiatives with like-minded countries to bring peace to the largest country in Africa — the Sudan. However, such a commitment from Canada will call for more resources and personnel at a time when there are enormous calls on current resources.

The situation in Sudan is not disconnected with the events of September 11. In the midst of the current preoccupation with appropriate security measures in Canada in the aftermath of the tragedy of September 11, I remind us all that over 2 million Sudanese civilians have lost their lives in the current civil war. Just because Sudan is not capturing the current headlines does not mean it is time to put it on the back burner or to forget or abandon people caught in that wretched situation.

Our commitment to ongoing work for peace, particularly in the continent of Africa, is as urgent as it ever was. I count on the continued support and interest of senators for Canada's efforts in what promises to be a very long commitment to achieve an effective peace.

FINANCE

ANNIVERSARY OF LAST FEDERAL BUDGET

Hon. Terry Stratton: Honourable senators, I rise to draw the attention of the Senate to an important milestone that Minister of Finance Paul Martin passed over on the weekend. Perhaps his leadership needs this little boost. I know it is unusual for a member of the opposition to point out the achievements of the government, but this is worth noting.

As of Saturday, it has been 600 days since the last full federal budget in February 2000. No Canadian finance minister has ever gone that long without presenting a budget. Indeed, Paul Martin was already only the second finance minister ever to go 500 days without presenting a budget — a mark last achieved in 1968.

If he holds off until early February, Paul Martin will become the first finance minister to ever go 700 days without a full budget. If he holds off until February 28, it will be two full years. If this were hockey or basketball, we would congratulate Mr. Martin for any kind of record extending back over 600 days.

This is not hockey, however, and in light of current circumstances, I would urge the Minister of Finance to end this dubious streak and bring in a full budget immediately.

ROUTINE PROCEEDINGS

CITIZENSHIP AND IMMIGRATION

POSITION OF DEPUTY CHAIR OF PROPOSED REFUGEE APPEAL DIVISION—DOCUMENT TABLED

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I should like to table a document entitled "Position of Deputy Chairperson of the Proposed Refugee Appeal Division," which I indicated to the Leader of the Opposition I would try to get for him today.

[Translation]

CANADIAN TOURISM COMMISSION

TRANSITION REPORT TABLED

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the transition report of the Canadian Tourism Commission, for the nine-month period ending December 31, 2000.

[English]

IMMIGRATION AND REFUGEE PROTECTION BILL

REPORT OF COMMITTEE

Hon. Jane Cordy, for Senator Kirby, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, October 23, 2001

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

NINTH REPORT

Your Committee, to which was referred Bill C-11, An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger, has, in obedience to the Order of Reference of Thursday, September 27, 2001, examined the said Bill and now reports the same without amendment. Your Committee appends to this Report certain observations relating to this Bill.

Respectfully submitted,

MICHAEL KIRBY
Chair

(For text of observations, see today's Journals of the Senate, Appendix to Report, p. 869.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Cordy, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[Translation]

ADJOURNMENT

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding Rule 58 (1)(h), I move:

That, when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, October 24, 2001, at 1:30 p.m.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

• (1420)

CRIMINAL LAW AMENDMENT BILL, 2001

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-15-A, to amend the Criminal Code and to amend other Acts.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Pearson, bill placed on the Orders of the Day for second reading two days hence.

[English]

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

MEETINGS IN JUNE AND JULY, 2001—REPORT OF CANADIAN DELEGATION TABLED

Hon. Jerahmiel S. Grafstein: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation to two special meetings of the Canada-United States Inter-Parliamentary Group held in Washington this past spring and summer, June 25 and 27, and July 15 and 18, 2001, wherein we met with 16 senators and 46 congressmen.

ACCESS TO CENSUS INFORMATION

PRESENTATION OF PETITION

Hon. Lorna Milne: Honourable senators, I have the honour to present 305 signatures from Canadian Home Children and their descendants from all across Ontario and Saskatchewan, particularly around the Rosetown-Herschel area, who are researching their ancestry. They are petitioning the following:

We the undersigned request that the Canadian Government make available all post 1901 Census returns since they are the only public means available to Canadian Home Children and their descendants, who make up 10 per cent and more of our population, to access the whereabouts of their siblings and relatives from whom they have been separated by this country's tacit acceptance of a policy now recognized by the British Government as being *misconceived* and the cause of *irreparable* and *irrevocable* damage to the child migrants and their descendants.

I have now presented before this Thirty-seventh Parliament petitions with 12,684 signatures. I presented petitions with over 6,000 signatures to the previous Parliament, all calling for immediate action on the release of post-1901 census information.

QUESTION PERIOD

NATIONAL DEFENCE

ELIMINATION OF HAZARDOUS MATERIALS PLATOONS FROM INFANTRY BATTALIONS

Hon. J. Michael Forrestall: Honourable senators, I have a question for the Leader of the Government in the Senate. First, I wish to raise concern in the Senate about the decision by the Department of National Defence, the Minister of National Defence and the Chief of the Defence Staff to eliminate the only capability we have in the Canadian army with respect to chemical, biological, radiological or nuclear attack.

In total, we have about 100 people who are skilfully trained in decontamination. It has come to my attention, as I have indicated, that the government has decided to eliminate the Pioneer Platoons from the infantry battalions. These are the only forces that have this capacity.

Considering our current lack of preparedness admitted by the government and its own witnesses, would the government give some consideration to halting the elimination of these platoons from the infantries and battalions so we might retain this trained corps?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I wish to begin by welcoming Senator Forrestall back. It is good to see him back on his feet and in obvious good health.

As to the honourable senator's specific question, I have no knowledge that those two platoons are being eliminated, but I will certainly take the information that the honourable senator has given to me this afternoon to the Minister of Defence.

Senator Forrestall: I appreciate the leader's response, but the order has been issued, so I am told. Anything we can do to retain that capability will augur well for our Canadian Forces, particularly in these days.

PROPOSED PEACEKEEPING MISSION TO AFGHANISTAN—AVAILABILITY OF TROOPS

Hon. J. Michael Forrestall: Honourable senators, the Prime Minister has announced that Canada will send ground troops to Afghanistan to keep peace after this war on terrorism comes to an end. We all know that the Canadian army is engaged in keeping just 1,900 soldiers abroad in Bosnia and on peacekeeping missions. We need four times that number of people in the rotation cycle to simply sustain that force.

My question is rhetorical but very meaningful: From where will these other soldiers come? Will the mission to Afghanistan be a one-shot deal for six months or so with a battle group? Will the government lengthen tours to nine months or a year? Will the government drop its Balkan commitment, or will it mobilize the reserves? We must find these troops if we are to give meaning to the Prime Minister's undertaking to offer peacekeeping forces to serve in Afghanistan after the war.

Hon. Sharon Carstairs (Leader of the Government): The honourable senator makes reference to one of the outstanding roles that Canada has played in the world for a great many years and which was celebrated this weekend at the peacekeepers' memorial here in Ottawa.

Preliminary plans are being debated for what may take place in Afghanistan following the cessation of the present activities. Canada's contribution to that has still not been determined. I am sure the honourable senator would not expect it to be determined.

However, I want to assure the honourable senator that since September 11, there has been an increase in the number of applicants to serve in our Armed Forces. Many Canadians felt compelled by the actions of September 11 to enter our Armed Forces. The recruitment still goes on, and the objective of appropriately training those troops will be undertaken over the next few months.

AFGHANISTAN—SHIPS ASSIGNED TO MIDDLE EAST— REPLACEMENT OF SEA KING HELICOPTERS— PURCHASE OF EH-101 CORMORANT HELICOPTERS

Hon. J. Michael Forrestall: Honourable senators, can the Leader of the Government in the Senate ascertain the name of the sixth ship, yet unnamed, that will fulfil the government's six-ship commitment to the war on terrorism? If that is not known, could the minister discover whether, for our edification and information, it is because they cannot find a crew for her?

At the same time, we all know there are seven brand new Cormorants sitting on the ground with fully trained crews quite capable of being in operation. The Cormorant rescue helicopters are sitting on the ramp in Italy awaiting the Canadian government's decision to take delivery.

Is it a question of the government not wanting this equipment here in Canada or engaged with the aging Sea Kings in the sphere of operation they have entered into so proudly?

Hon. Sharon Carstairs (Leader of the Government): First, I wish the honourable senator to know that his colleagues on the other side were concerned that the kinds of questions he would want to ask be asked in this chamber. The question he asked about the sixth ship last week was asked by Senator Stratton, and the question he asked about the Cormorants was asked by Senator Meighen. Those senators took good care of my honourable friend's position as critic while he was away.

Senator Forrestall: I have given the leader two days to give the answer. I just want the answer.

Senator Carstairs: I will in fact give my honourable friend the answer. The sixth ship has not yet been determined because the coalition has not yet determined what services it wishes this ship to perform. This has not anything to do with finding a crew.

Senator Lynch-Staunton: You have to train them.

Senator Carstairs: The Cormorants are going through final testing. As soon as that is completed, they will be delivered.

Senator Lynch-Staunton: They are sitting at an airport.

HEALTH

PURCHASE OF GENERIC ANTI-ANTHRAX DRUG—ACQUISITION PROCESS—TESTS TO DETERMINE SAFETY

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is also to the Leader of the Government in the Senate. It relates to the news of last week that the Government of Canada decided to breach the patent on the anti-anthrax drug, Cipro, held by the Bayer company.

• (1430)

That decision having been made, Canadians would like to know the tendering process that was followed by the Government of Canada when it decided to ask the Apotex company to produce the million or so copycat pills? Was the request indeed put out to tender or is this another example of sole-sourcing?

Senator Lynch-Staunton: A split dip.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, to the best of my knowledge, there was no tendering. The government was concerned about ensuring that the safety of Canadians would be adequately protected. They felt they needed quantities of Cipro on hand. At that time, according to my information and apparently according to the information of the Minister of Health, Bayer was not able to honour the production of the drug as required. Information now would indicate that Bayer can and will produce the quantities required by the Government of Canada.

Senator Kinsella: Honourable senators, on Friday last, a senior executive officer of Bayer held a press conference at which he announced that in storage in Toronto were some 2 million Cipro pills. Notwithstanding that, the Government of Canada took a decision to break the drug patent law and ask a generic-drug company to make the copied pills.

Why did the Government of Canada not consider asking Ranbaxy Laboratories Limited, which also can make Cipro but at one-thirtieth of the cost? If the Government of Canada wanted to take the generic drug route, why did they not go to Ranbaxy Laboratories?

Senator Carstairs: Honourable senators, I read with great interest this morning in *The Globe and Mail* that when *The Globe*

and *Mail* reporter asked Bayer last week if they had sufficient quantities available, they argued that, no, they did not. Apparently confusing information about Bayer's production capacity was getting not only to the Government of Canada but also into media outlets. As to whether the government could have gotten an even better price, I do not know the answer. Clearly, the government wanted to move quickly to ensure adequate availability of antibiotics, particularly Cipro, should Canadians need it. Thanks be to God, they have not yet needed it.

Senator Kinsella: Honourable senators, I have another supplementary question. The minister will know that the Patent Act governing drugs provides in section 19.1(2) for cases of national emergency or extreme urgency.

The Minister of Justice yesterday told the special committee that the anti-terrorist legislation is not based upon an apprehension of emergency but, rather, is based upon the criminal law in the Criminal Code. If there is no apprehension of emergency in the mind of the Minister of Justice, where does the Minister of Health get the idea that an emergency might exist such that it could make a claim — even though they did not make such a claim — pursuant to the Patent Act? Does an emergency exist or does it not exist?

Senator Carstairs: Honourable senators, there have been no diagnoses of anthrax in Canada. There have been a number of anthrax-related deaths in the United States. A number of Americans have apparently been in contact with the less virulent form of anthrax, which is a skin anthrax as opposed to an inhaled anthrax.

The national emergency would exist clearly at the moment when individuals in this country are diagnosed with anthrax in any of its variety of forms. That national emergency would require the medication to be available immediately.

It took many weeks, after the planes went into the World Trade Center and into the Pentagon and into a Pennsylvania field, before the Americans took action in their anti-terrorism war. We would not have that kind of time frame in a situation where anthrax is spreading across this country. The time between an emergency being declared and the requirement for action on that emergency is an extraordinarily tight time frame.

Senator Kinsella: Honourable senators, can the minister provide any information or can she secure information from the Department of Health as to the testing process to be used to determine whether the generic drug that is being copied will meet health standards? What is the shelf life of that drug?

Senator Carstairs: Honourable senators, those are very specific questions. I will ask them of the Department of Health and try to return the answers to this chamber as soon as possible.

[Translation]

Hon. Pierre Claude Nolin: Honourable senators, since the leader of the Government in the Senate is going to ask questions of the Minister of Health, could she explain to us the facts about the availability of the generic drug.

Was last week's decision to purchase generic drugs, drugs with a copied formula, based on the information we received from the Minister of Health to the effect that the copied drug was already available, or was going to be?

[English]

Senator Carstairs: Honourable senators, the Department of Health and the general public had clear knowledge that Apotex was able to produce this quantity of drug. There were ongoing interactions, legal and otherwise, between Bayer and Apotex about this particular drug. The ability of Apotex to make the drug was relatively well known.

Senator Nolin: Was it also understood that Bayer could produce the same drug?

Senator Carstairs: There is no question, honourable senators, that Bayer had the potential to produce the same drug, but the indication was that they were not able to supply it at the time when the government wanted it.

[Translation]

Hon. Roch Bolduc: Honourable senators, why does the minister not tell us the truth, that Department of Health officials wanted to save money? Did they not say to the minister: "We are not just anybody, we are the government, and so we will buy drugs at a savings from companies that manufacture generic products instead of from Bayer"?

The minister need only admit that the government made the wrong decision and offer his apology. That is all.

[English]

Senator Carstairs: Honourable senators, the minister has done that to some degree. Bayer will now supply the drug. Apotex will also supply its drug. It will be held in storage and will not be used unless absolutely necessary.

[Translation]

Senator Bolduc: The fact is that the minister did not consider himself an ordinary citizen, and this is not a good idea. Ever.

[English]

TRANSPORT

POLICY OF SUPPORT FOR COMMUTER TRANSPORTATION—MANDATE OF CABINET TASK FORCE ON URBAN ISSUES

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. It is a question that seeks clarification of government policy on commuter bus and rail systems throughout Canada.

Today's *Toronto Star* carries a story in which the Ontario Minister of Transport, Mr. Clark, criticized the federal

government for refusing to come to the table. The story said that Clark had hoped to hammer out an agreement that would see the federal government pick up one third of the \$9-billion plan to fund Ontario's transit.

My question is the following: What is the government's policy with respect to assisting provinces and municipalities regarding this transportation?

• (1440)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, there are ongoing discussions on a fairly regular basis between the Department of Transport and provinces and their municipalities. It is a rare thing, as you know, for the federal government to enter into negotiations directly with municipalities unless it is through the vehicle of their parent, which is the provincial government. In this particular case, the government has made the decision not to proceed.

Senator Oliver: Honourable senators, in the news story, the Minister of Transportation, Mr. Collenette, is alleged to have said that a task force on urban issues, headed by MP Judy Sgro, is delving into the issue and would have recommendations this year. Could the minister tell us the scope of the task force that is doing that study?

Senator Carstairs: The study is actually a caucus study, honourable senators. The chairperson is a member of House of Commons from the Toronto area and a former city counsellor in Metropolitan Toronto. The scope of the task force is very broad. It has been asked to study all urban issues, particularly in relation to a concern frequently raised by municipalities, which is the offloading of provincial responsibilities onto municipalities.

FINANCE

POSSIBILITY OF ECONOMIC UPDATE OR BUDGET

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. As was shown this morning with the drop in the Bank of Canada interest rates by a further three-quarters of a percentage point, the economy now has come to a full and abrupt halt. This will affect the bottom line dramatically. The government cannot count on a growing economy to yield the growing revenues needed to keep its books in the black. At the same time, there are new cost pressures arising from the response to terrorism. The Finance Minister refuses to set a date, preferably for a budget, but, failing that, for some kind of proper accounting on how much he expects to spend and raise this year and next. It is 600 plus days now since the last budget. Can the Leader of the Government in the Senate assure us that there will be a budget or some kind of fiscal update prior to the Remembrance Day break?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the honourable senator says that the economy has come to a full and abrupt halt. I do not think there is any indication that it has come to a full and abrupt halt.

Senator Stratton: I said "appears."

[Senator Nolin]

Senator Carstairs: There is indication, and quite clearly indication, that there has been a slowdown in the Canadian economy, a slowdown that is far less than the slowdown in the American economy. For example, retail sales increased in August. One would anticipate they have been down since September 11, but we do not have those figures yet. We do know that Canada is the third most competitive country in the world, according to the 2001 Global Competitiveness Report. We know that manufacturing shipments also went up in August, and that wage settlements increased in August as well.

As to the honourable senator's specific question, the Minister of Finance promised an economic update and/or budget sometime in the month of October, and I have no reason to think that it is not coming down during this month.

Senator Stratton: Honourable senators, I hope I said "appears" rather than making a de facto statement about falling off the table. I said, "hopefully it would appear," and if I did say "fall off" or "has fallen off" or "ground to a halt," then I apologize. The economy is still moving, but the question is, to what degree?

The Bank of Canada has dropped its rate considerably over the last few months, and it has now dropped it by three-quarters of a percentage point, when most economists and individuals were expecting a half point, perhaps a quarter point drop. The three-quarters of a percentage point drop announced today is a clear indication that there are problems down the road as we head into the next fiscal year and as we finish off this quarter. We need to hear quickly. Please, can the leader try to get a clear indication of what day? It is October 23, and the leader has assured us that it would be by October 31. Usually the minister makes an announcement and then a week or 10 days later makes the statement. We need to have a clearer indication than what the leader has indicated.

Senator Taylor: What was your question?

Senator Carstairs: The honourable senator knows that the decrease in the bank rate by the Bank of Canada was to keep pace with the bank rate drop in the United States. In terms of when a date will be announced, I will let this house know as soon as I learn and can make it available for public consumption.

IMMIGRATION AND CITIZENSHIP

RECOMMENDATION OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE FOR STUDY OF IMMIGRATION AND REFUGEE PROTECTION SYSTEM

Hon. Douglas Roche: Honourable senators, I have a question for the Leader of the Government. Today the Standing Senate Committee on Social Affairs, Science and Technology tabled in the Senate the report on Bill C-11 without amendment but with a lengthy series of observations, among which is the request for

an in-depth study of all aspects of Canada's immigration and refugee protection system. The Senate would conduct this study for the purpose of defining the fundamental issues in the Canadian immigration and refugee systems. Would the minister support that recommendation?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it would appear to me that since it was the Standing Senate Committee on Social Affairs, Science and Technology that made such a recommendation, it would be the Standing Committee on Social Affairs, Science and Technology that would come forward with a proposal for such a study. At that time, it will be debated and discussed in this chamber and given a priority, as all studies of the Senate are priority issues. I see no reason why I would have any objection to such a study.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

The Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, it is my pleasure to table a delayed answer to the question raised by Senator Di Nino on September 19, 2001 on the subject of the terrorist attacks on the United States and the effect on the people of Afghanistan.

FOREIGN AFFAIRS

TERRORIST ATTACKS ON UNITED STATES— EFFECT ON PEOPLE OF AFGHANISTAN

(Response to question raised by Hon. Consiglio Di Nino on September 19, 2001)

RESPONSE:

Of the additional \$6 million that Canada has announced since the events of September 11, \$500,000 will be provided to CARE Canada to respond to needs both in Pakistan and inside Afghanistan. The remaining will be provided through the International Committee of the Red Cross, the World Food Program and the United Nations High Commissioner for Refugees.

There are very few Canadian NGOs who have a history of working inside Afghanistan. CARE Canada, Doctors Without Borders Canada as well as FOCUS have programs in Afghanistan through their international networks. Both these organizations have received significant funding from CIDA for their work in the country. Other Canadian based organizations that are active in Afghanistan via local Afghan partners include the International Disaster Relief Foundation as well as McMaster University's Centre for Peace Studies.

A number of Canadian humanitarian NGOs have informally contacted CIDA in the past two weeks to inform us of their plans to respond, many through their international networks, to the most recent crisis. Proposals are expected for both activities in Afghanistan and in neighbouring countries where large refugee influxes are expected. These NGOs include CARE Canada, Doctors Without Borders Canada, World Vision Canada, OXFAM Canada, the Canadian Red Cross, Médecins du Monde and Save the Children Canada. CIDA is in touch with these organizations as it reviews what further steps to take in responding to this emergency situation.

With the development of the Canadian Peacebuilding Initiative in 1997 and the subsequent creation of the Peacebuilding Fund, CIDA has taken a pro-active role in supporting mechanisms to resolve violent conflict through peaceful means, including mobilizing development assistance to support conflict resolution.

The CIDA Peacebuilding Unit is actively engaged in dialogue with Canadian NGOs with expertise in peacebuilding on how to address this impending emergency situation in Afghanistan and surrounding countries. The goal of a peacebuilding approach is to address the root causes of conflict and to find ways to address grievances. The very best peacebuilding is conflict prevention, and the best conflict prevention is sustainable social and economic development, which is at the heart of what CIDA does.

CANADA CONTRIBUTES \$1 MILLION IN SUPPORT FOR AFGHAN REFUGEES

(2001-64) News Release September 19, 2001

Calgary, Alberta—Maria Minna, Canada's Minister for International Cooperation, today announced that the Canadian International Development Agency (CIDA) will contribute \$1 million to the United Nations High Commissioner for Refugees (UNHCR) to help respond to emerging needs of Afghan refugees in the region.

Thousands of people have been massing at Afghanistan's borders since the terrorist attacks on the United States on September 11th. In condemning the attacks, Prime Minister Jean Chrétien has said, "Our fight is against terrorism. It is not against any one religion or faith."

"In the wake of increasing global tension, large numbers of Afghans are currently on the move," Minister Minna said. "Afghanistan was already experiencing one of the most serious humanitarian crises globally...Canada will continue to deliver humanitarian assistance to alleviate the incredible hardships the Afghan people are facing."

After 20 years of conflict and three years of devastating drought, the population is extremely vulnerable. Many

Afghans are dependent on international assistance for their survival...even before the developments of last week, the World Food Program warned of pre-famine conditions in Afghanistan. There are already over 3.5 million Afghan refugees in Pakistan and Iran, and one million displaced persons inside the country. The situation will be further exacerbated by the onset of winter. The Canadian assistance announced today will be used by UNHCR for shelter, water and sanitation facilities, as well as basic health care.

Following the attacks in New York and Washington on September 11, and the growing international pressure on Afghanistan, all international aid workers have left the country. However, efforts to maintain humanitarian aid will continue through the local staff of UN agencies.

Funding for this initiative was provided for in the February 2000 federal budget and is therefore built into the existing financial framework.

Information:

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CANADA CONTRIBUTES AN ADDITIONAL \$5 MILLION FOR AFGHAN REFUGEES

September 29, 2001
Ottawa, Ontario

Prime Minister Jean Chrétien announced today, following a meeting with United Nations Secretary-General Kofi Annan in New York, that Canada is contributing an additional \$5 million to help respond to emerging needs of Afghan refugees and internally displaced people in the region. This brings Canada's contribution to the current crisis to \$6 million.

"We are concerned about the welfare of the refugees and the people amassing along the borders of Afghanistan and its neighbouring countries," said the Prime Minister. "Canada has always been there in such emergency situations and we cannot turn our backs. We will continue to monitor the situation and will respond accordingly."

The funds will be provided by the Canadian International Development Agency and will be used to respond to the immediate needs of those affected by the situation and to help efforts to cope with the expected flow of refugees and internally displaced people. The contribution will be as follows:

- \$1.5 million for food aid;
- \$1.5 million for the International Committee of the Red Cross;
- \$1.2 million for the United Nations High Commission for Refugees;
- \$500,000 for CARE Canada; and,
- \$300,000 for the United Nations Office for the Coordination of Humanitarian Affairs.

Long-term conflict, persistent drought and the tension caused by the recent terrorist attacks in the United States on September 11 have led to an increase in the number of refugees and internally displaced people relying on aid for survival. According to the United Nations' worst-case scenario, the number of people at risk could jump from 5 million to 7.5 million people.

Funding for this initiative was provided for in the February 2000 federal budget and is therefore built into the existing financial framework.

PMO Press Office

[English]

ORDERS OF THE DAY

THE SENATE

COMMITTEE OF THE WHOLE—REPLACEMENT OF SEA KING
HELICOPTERS—APPEARANCE OF OFFICIALS ON PROCUREMENT
PROCESS—MOTION IN AMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Robichaud, P.C., seconded by the Honourable Senator Finestone, P.C.:

That at 3:00 p.m. on Thursday, October 4, 2001, the Senate resolve itself into a Committee of the Whole in order to receive officials from the Department of National Defence and the Department of Public Works and Government Services for a briefing on the procurement process for maritime helicopters,

And on the motion in amendment of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Joyal, P.C., that the motion be amended by striking out the words "Thursday, October 4, 2001" and replacing them with the following: "Tuesday, October 30, 2001."

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I think we can carry the amendment changing the dates right now. It is up to the government to decide.

As much as we were pleased to have the minister accept the idea of a Committee of the Whole on the question of the Maritime Helicopter Procurement Process, we were equally disappointed when the motion was tabled to find that the study would be limited strictly to the examination of witnesses from the Department of National Defence and the Department of Public Works who in effect will be invited, if this motion is passed, simply to defend the government's position.

The purpose of the request to have a Committee of the Whole was to have all sides come before the Senate. The issue has been clouded with a great deal of evidence from both sides, but so far it has not allowed anyone looking at it objectively to come to a clear conclusion.

• (1450)

It can be argued that the request was in words that can narrow the purpose of the briefing, but the Leader of the Government in the Senate, interestingly enough, understood the purpose of the motion to have this Committee of the Whole, as demonstrated in an exchange with Senator Forrestall on June 5. I shall read from *Debates of the Senate* of June 5, at page 1001. Senator Forrestall asked:

Would the minister entertain some suggestions as to individuals from the military that we might hear from?

The Leader of the Government replied:

Honourable senators, I would think that would be a logical follow-up to the announcement that there would be a Committee of the Whole and the subsequent deliberations as to when that day is to take place. A suitable witness list will also be determined.

A "suitable witness list," by our interpretation, is a list including individuals who can explain both sides of the issue, to allow us, it is hoped, to come to a satisfactory conclusion.

In line with the wishes of the Senate, as expressed, particularly in the exchange between Senator Forrestall and Senator Carstairs, I should like to move the following amendment. Before I do so, there are names that I shall suggest as witnesses who have been selected for their past and present knowledge of the entire helicopter issue. Some of them have questioned the process; some of them are with the department and, therefore, will defend the process. One of them is the president of the Aerospace Industry Association, which represents all the potential bidders of whom we are aware. The names that are the most prominent are members of this association.

The individuals I shall suggest in this amendment as witnesses before the Committee of the Whole have been actively involved in the past in the entire helicopter activities of the armed services, or represent manufacturers and potential bidders, or are at present senior members of the Armed Forces. Having said that, I shall move the motion, pursuant to rule 59(1), and seconded by Senator Forrestall.

The Hon. the Speaker: I suggest we deal with the amendment first, which seems to be non-controversial, and then the honourable senator can, as anticipated, put his amendments.

Is it your pleasure, honourable senators, to adopt the motion in amendment?

Hon. Senators: Agreed.

Motion agreed to.

MOTION IN AMENDMENT

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, as a result, I move, pursuant to rule 59(1), seconded by Senator Forrestall:

That the motion to resolve the Senate into a Committee of the Whole on October 30, 2001, at 3:00 p.m. for a departmental briefing on the procurement process for maritime helicopters be amended by adding after the words "maritime helicopters" the following sentence:

"And upon completion of this briefing to adjourn to the call of the Chair to hear further witnesses on matters pertaining to the maritime helicopter procurement process, in particular, Colonel Lee Myrhaugen, retired; Mr. Peter Smith, President of the Aerospace Industry Association; Staff Admiral G. Garnett, former Vice Chief of Defence Staff; Lieutenant General George MacDonald, Vice Chief of Defence Staff; and General L.C. Campbell, Chief of Air Staff, and such other witnesses as the Committee may decide are necessary to determine the fairness and equity of the maritime helicopter procurement process as developed by the Government of Canada."

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I rise to say that the Honourable Leader of the Opposition makes reference to my reply to Senator Forrestall, in which he asked if we would be willing to accept some suggestions from the military. In fact, one of the military witnesses that the Leader of the Opposition wrote to me about this summer has been accepted by this side, and will be appearing as part of the briefing. In fact, one of the reasons it has been delayed to this time has been because that particular individual was not always available.

On motion of Senator Forrestall, debate adjourned.

PUBLIC SERVICE WHISTLE-BLOWING BILL

THIRD READING—REFERRED BACK TO COMMITTEE

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable

Senator Keon, for the third reading of Bill S-6, to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers.—(*Honourable Senator Kinsella*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, Bill S-6 has been at third reading stage in this chamber since last spring, and the debate had commenced with my moving third reading and beginning to speak on the content of the bill, which I thought was a good bill.

In the meantime, as honourable senators no doubt recall, a few days after we rose in June, the President of the Treasury Board issued a policy statement for the Treasury Board that deals with the same topic. In the minister's presentation of the Treasury Board's new policy, they recognized the work that we had been doing on whistle-blowing with Bill S-6 and they had drawn liberally from the work that the Senate had been doing.

It seems to me, honourable senators, that it would serve our objective in wanting to see an infrastructure within the Public Service of Canada that deals with whistle-blowing, and also the objective of the President of the Treasury Board, who thinks that she can accomplish the same objective through a policy process.

The minister had appeared before our National Finance Committee on a related topic and at that time informed honourable senators that she would be quite happy to return to the National Finance Committee of the Senate to explicate the policy once that policy was developed. Therefore it seems to me, honourable senators, that it would be reasonable and efficacious for us if an opportunity were given to the minister to be able to comment on the Treasury Board's policy on whistle-blowing and to compare that policy to our bill, which had received the unanimous support at all stages from all sides of the Senate.

• (1500)

REFERRED BACK TO COMMITTEE

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): With that background, honourable senators, pursuant to rule 30 and with leave of the Senate, I move, seconded by Senator Stratton:

That Bill S-6, An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers, be not now read a third time but that it be referred back to the Standing Senate Committee on National Finance for the purpose of assessing the Bill in the context of the President of the Treasury Board's June 28, 2001, statement and release of the Policy on the Internal Disclosure of Information Concerning Wrongdoing in the Workplace.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

CONDEMNATION OF TERRORISM

MOTION—DEBATE ADJOURNED

Leave having been given to proceed to Motion No. 82:

Hon. Jeremiah S. Grafstein, pursuant to notice of October 16, 2001, moved:

That the Senate:

- Considering Resolutions 1368 and 1373 adopted by the Security Council of the United Nations on September 12, and September 28, supporting initiatives to eradicate international terrorism that threaten peace, security, human rights and freedoms and the political order of the free and democratic society;

- Considering that in its special session of October 2, 2001, the North Atlantic Council determined that “the attack against the United States on 11 September was directed from abroad and shall therefore be regarded as an action covered by Article 5 of the Washington Treaty, which states that an armed attack on one or more of the Allies in Europe or North America shall be considered an attack against them all”;

- Condemn unequivocally the use of violence and terrorism to overthrow the democratic order and the elimination of human rights and freedoms;

- Support the decision of the Government calling upon the Canadian Armed Forces on active service to join the international campaign against the perpetrators of the terrorist attacks of September 11;

- Express its preoccupation that humanitarian support be given to the civilians affected by that campaign;

- Express its urgent concern that the authors and supporters of those terrorists attacks are brought to justice accordingly;

- Express its strong belief that it is through negotiation and peace settlement that legitimate claims of the States should be dealt with in the International Order; and

- That upon adoption of this motion, the said motion should be deemed referred to the Standing Senate Committees on Foreign Affairs and Defence and Security for study and report back to the Chamber in the next 30 days.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I should like to thank the Honourable Senator Grafstein for bringing this debate to the floor of the Senate.

September 11, 2001, will be a day etched in the minds of citizens around the world. When we watched hijacked planes turned into weapons used to kill people in New York City, Washington D.C. and rural Pennsylvania, we knew that our world had changed. We were, and will always be, shocked by the cruelty of those events and could not apprehend the pain that has been inflicted on so many innocent people. Thousands of innocent lives were taken in an appalling and brutal manner, including the lives of some 40 to 75 Canadian citizens.

In the ensuing weeks we have watched biological organisms turned into weapons.

[Translation]

The random nature of the violence used is disconcerting and serves only to increase our fears in situations that would not normally bother us. As you know, Senate employees had to be quarantined early last week. Some of them had to go through disinfection and examination procedures we thought were limited strictly to laboratories.

[English]

In light of these events, we must proceed with caution and considerable thought to an appropriate response. However, while we are beginning to see the impact of terrorism in our daily lives, we also must remember that the real threats to Canadians originate right here at home.

The actual causes of death in Canada are familiar to us — heart disease, cancer and stroke. We hear so often of the dangers of smoking, or a poor diet, or a sedentary lifestyle, that it has become a familiar refrain which we routinely dismiss. While we must acknowledge that terrorist attacks have caused changes in our lives, let us not allow them to be lived in a heightened state of fear, but instead one of heightened awareness, an awareness that, in most ways, our daily lives have not changed since September 11; and an awareness that the real dangers to our lives have been the same ones we have always known, the same diseases which have touched all our lives, and which have always lived among us.

Let us also not diminish the importance of these assaults on our way of life. The Government of Canada has taken decisive steps to address the new realities that have become part of our lives since the tragic attacks on September 11.

In some ways, this campaign against terrorism is unlike anything we have seen before. We are exposed to new weapons that have never before been seen on our planet and, just as we have found a resolution to the mutual antagonism of nuclear superpowers, we will find a resolution to the threat we are facing today.

No one predicted the end of the Cold War as it actually happened. It was a triumph of quiet diplomacy and a recognition of the benefits of democratic values. Today's conflict is one marked by contrariness. There are no conventional soldiers, no conventional battlegrounds. A few people can attack a great nation. Their methods can be simple but devastatingly effective.

NATO nations and their allies have recognized that they must come together in order to combat this new type of threat.

[Translation]

The leaders of this international anti-terrorism coalition showed themselves firmly resolved to prevent future attacks against other countries. All Canadians, first ministers, chairs, members of cabinet, and secretaries will recall the tragic events of September 11, which have led to a call for action. These terrorist attacks have affected our decisions, our policies, and our diplomatic relations, and have profoundly changed the way public business is conducted in all regions of the world. Furthermore, Canada has a key role to play in this campaign against terrorism.

[English]

Canadians have always had a sense of how small our world is, and of how much we are all affected by our neighbours. We have been world leaders in advancing understanding, communication and mutual respect between nations. We invented peacekeeping, and our international development and assistance programs are among the best in the world. We do this in order to promote Canadian values and make our world a better place in which to live.

• (1510)

What do we mean when we say that we want to preserve Canadian values? That we are committed to educating our children? That we support universal health care? That we believe in individual rights and personal freedoms? It means all of that and much, much more.

Canadian values transcend any particular aspect of our lives. We are committed to something larger than ourselves, to something larger even than Canada itself. That is why internationalism has been a part of our identity as a nation since its inception. The Prime Minister referred to our commitment to, and I quote, "global courage and common purpose." Canadians have always recognized that nations must cooperate, because our common interests are more important than our differences. In the face of recent and future threats, we will continue to fight for justice and peace in our world.

Our new enemies do not want to occupy our country but to destroy it from within. They want to topple our economy, to

instigate hatred between different cultures and to set citizen against citizen. However, Canada is not vulnerable to these threats. Even in our darkest moments, Canadian history has been marked by cooperation, acceptance and foresight. Our political public service and business leaders have always recognized that we are in this together. We have defined our goals by their degree of mutual benefit and respect.

The most visible sign of Canada's engagement in the fight against terrorism is the launch of Operation Apollo. Last week, in Halifax, our Prime Minister watched the departure of Her Majesty's Canadian Ships *Preserver*, *Iroquois* and *Charlottetown*. They will join HMCS *Halifax*, already in the Persian Gulf, and HMCS *Vancouver*, which is either on its way or soon will be. The people on board these ships and in all our Canadians Forces are our heroes. They are a visible and unmistakable statement in response to terrorist attacks.

Some have doubted the need for military action and have suggested that perhaps it is an overreaction. I would invite them to review the recent history of terrorist actions taken against our allies. The events of September 11 were not against one nation but an attack against the entire international community, against those who do not share the same views as the terrorists. That makes it an attack on all nations who value life, tolerance and liberty. We are not targeting the innocent; we are targeting the guilty. They are only a small number of people, but they are spread throughout the world, and it will require a worldwide response to eradicate this doctrine of destruction. I would like to emphasize that military action is only part of our response to this threat of terrorism.

My colleague the Honourable John Manley has been appointed chair of the new Ad Hoc Committee of Ministers on Public Security and Anti-Terrorism. This committee will be a coordinating effort on the part of the government to respond to terrorism and threats to public safety.

Two weeks ago, the government announced a \$250-million package of national security measures. We are enhancing airport and border security and increasing the number of intelligence officers.

The proposed Anti-Terrorism Act, introduced earlier last week in the other place and now engaged in special pre-study in this place, includes provisions to more easily identify and prosecute terrorist groups and to cut off their sources of funds. Measures are included to give law enforcement the ability to expand surveillance operations and to broaden the guidelines under which warrants are issued. The government will not limit itself to these measures. Our goal is to respond appropriately to changing conditions and to introduce additional measures whenever necessary.

While we take action, we are ever mindful of the need for peace. All Canadians want our troops to return home as soon as possible, but only when the job is done. We must eradicate terrorism in all its ugliness wherever we find it. The battle will not be quick and may not be defined with visibly decisive victories, but it must be fought with the resolve that all people in this world should live in peace and harmony with one another.

Hon. Senators: Hear, hear!

Hon. Pierre Claude Nolin: Honourable senators, Senator Grafstein's motion refers to two resolutions taken by two international bodies that Canada is part of, the first being the Security Council of the UN and the second being the North Atlantic Council, which, of course, Canada is a founding partner of. With respect to the support that the motion is seeking from our institution for the decision of the government, what role is the government contemplating for the UN in that coalition?

Senator Carstairs: Honourable senators, with respect to the resolutions of the Security Council, it is my understanding that 10 of the aspects 12 had already been put into force and effect. The remaining two are part of the anti-terrorism bill. In terms of the NATO commitment, of course, that is exactly the reason that our troops are where they are, either moving quickly towards the Persian Gulf or, with the HMCS *Halifax*, already there.

If the question pertains to what we are going to do after the fact, I can assure the honourable senator that negotiations are ongoing with all the partners, that discussions, even this weekend at the APEC meeting, involved what we could do after the present terrorist situation has been dealt with.

Senator Nolin: My question is really focused on some concern from Quebecers that I heard through radio and TV programs. There is a sense of strong preoccupation that everything will be decided in Washington and Canada. Senator Robichaud can say no, but the perception of many Quebecers is that the President of the United States will decide everything and that Canada will be informed subsequently. We are part of two important international organizations, and at least one works on consensus, NATO. In the UN, it is quite different, and we have a strong problem with that, but at least in NATO things works on consensus.

What is Canada asking our two ambassadors in those two bodies to defend? What should be the role of those two important organizations? That was specifically why I asked the question.

Senator Carstairs: Honourable senators, as the honourable senator probably knows, the United Nations has already sent out a request through the Security Council for a great many dollars, some of which would be used for the refugee programs now, but many of those dollars will be used for the rehabilitation initiative that will need to be undertaken. Canada will be a part of not only the present program but the future program, and that will be an individual initiative and decision made here in Canada as to what exactly our role will be.

In terms of a present coalition and the NATO agreement, it is by consensus. It is by consensus that Canada is with the United States at the present time. However, I think that what we have discovered in the past, and what we will surely discover after this, is that there is a trust level for Canada that does not exist with some of the greater powers, and I include the United States

in that. As we find the rehabilitation and, perhaps, the peacekeeping efforts that will be required in Afghanistan, there will be great calls put out for Canada because we have in the past served with such distinction. There is also the view in the international community that we are balanced and that we are focused on the long term and not just the short term.

• (1520)

After the war, it will not be easy for the Afghani people to turn to the United States, although certainly the German people did so after the Second World War and the Marshall Plan. It is difficult to turn with ease to the conqueror. Sometimes it is easier to turn to a third party. Canada will be a willing third party in that.

Hon. Jeremiah S. Grafstein: Honourable senators, if the opposition intends to speak on this, I will certainly defer to them. However, I am ready to speak now if that is your desire.

Senator Kinsella: Go ahead, then.

Senator Grafstein: Honourable senators, when we sing "O Canada, we stand on guard for thee," what are we asked to "stand on guard" against today? What is the nature of the current threat to Canada as of September 11? Is the current threat an assault on Canada's vital interests? If so, beyond deploying our military forces, beyond military force itself, beyond anti-terrorism measures and the interdiction of terrorist financial support at home and abroad, what can we do? What more can Canada do?

Let me modestly commence by noting the current dialectic that avoids the "W" word. Are we at war? If we are neither at "war" nor at "peace," have we entered into a new twilight zone that requires clear definition? It seems clear to most that even if this can be called a "war," it is a war with more diffuse means and opaque ends. As some have suggested, it is at best an asymmetric war against an amorphous, tiny widespread enemy. Have we yet grasped the nature and the reach of that threat? Only by appropriate definition can an appropriate response be crafted.

Honourable senators, have no doubt about this: The assault in the United States on September 11 is a direct threat to Canada's vital economic and political interests. Canada's entire economic trade and foreign policy is dependent upon multilateralism, international openness and interdependency and trade. We pride ourselves on our leadership in world organizations such as the WTO, the World Bank and the OECD. Why? All this effort is made for one singular goal: to keep the international avenues of international commerce and the global human rights open and growing. Yet September 11 and the events following have disrupted, debased and damaged these open avenues of commerce and humane activity that lay at the base of our economic and foreign policy. Whether we like it or not, we must examine this direct threat to Canada's economic model and the threat as well to our Canadian idea, the Western ideal of democracy, which is the heart at the heart of this new darkness, which it aims to stifle and suffocate.

Where can we turn for guidance to examine the nature of the threat we face and then propose some prudent means to accomplish our democratic ends? While our modest but skilled and courageous Armed Forces face the military risk, what is the political, intellectual and diplomatic dimension that can be addressed now? What tools do we have to deploy in this new robust, global battle for intellectual space, peace, security and stability?

Let me use as my first text a book published in 1951 by Eric Hoffer, an American longshoreman and self-taught street philosopher. Hoffer, from the vantage point of the horrors of the mid-century, analyzed the threat to democracy. His book was called, *The True Believer*. In it, he described the three Horsemen of the Apocalypse, the three miserable "isms" of the Twentieth Century: Fascism, Nazism and Communism. He added a fourth that, which like family, encompasses, all three: fanaticism.

Honourable senators, we have no choice but to enter the gates of darkness to examine the bacillus of fanaticism, to take autopsies and to study the pathology of this new scourge. Albert Camus reminded us in his book, *The Plague*, which was written after the Second World War, that a complacent, intellectual attitude that breeds indifference to fanaticism and appeases fanaticism, feeds fanaticism. What do we know now? We know fanaticism's war aims. Fanaticism is only satiated by world domination. Fanaticism targets the innocent as a strategic objective. Fanaticism preaches purity, not pluralism. Fanaticism preaches superiority, not equality. Fanaticism breaches cultural singularity rather than cultural diversity. Fanaticism abhors religious freedom, and worse. Fanaticism practices ethnic cleansing, be it Muslim, Christian, Jew, Hindu or Buddhist, agnostic or atheistic alike.

The real irony is that this virulent brand of fanaticism proposes a U-turn against modernity. Their chosen path lies in their quest to return to the past to return to an earlier age of servitude. Yet they enlist the very tools of modernity. They school in colleges of engineering and science, they deploy satellites, the Internet, fax, jets, electronic banking, global television networks, modern methods of destruction, and worse, biochemical arsenal that was outlawed by the entire world when its use was first deployed in World War I.

Honourable senators, look around us. Look at the World War I paintings that adorn this Senate Chamber. Look at that painting. There you will see gas masks on Canadian soldiers who were maimed and crippled with that first global experience of chemical warfare. How sad today that we cannot, in the year 2001, bequeath to our children a better world than we inherited after we believed we had erased the scourges of World War II and the Cold War just a little over a decade ago.

Hoffer profiled the "true believer" and discovered that these fanatic leaders were neither poor nor uneducated. They come from the educated, wealthy or middle class elites. Rather they "substitute" and "transfer," in Freudian terms, their own inner failures and frustrations to liberate themselves from their own failed and frustrated lives by preaching an illusive, purer utopian life for all. Only in this way can they liberate themselves from

their own failures. The key word is "transfer" — transfer to others the burden of all ills. They never look within themselves and always blame others. Failures in their own countries, they travel and they choose the poor down trodden of other nations to sow their bacillus of nihilism. What they cannot do at home, they seek to do abroad. As Fouad Ajami, an astute Arab observer pointed out, "unable to overthrow the ruling order in their home countries, they turn their resentment to the West."

The greatest folly of all is to raise the expectations and hopes of the masses by proposing that, by "transfer" and "substitution" of all their ills to others, they will be remarkably transformed and their lives will be improved, if not in this world certainly the next. They will be martyrs; they will be purified. The next world will be their Nirvana.

We are confronted with a revivalist mass movement that preaches a U-turn and a line of march back swiftly to the darkness of the past. Redemption lies not in destroying others, as Fouad Ajami notes, but in choosing to renovate and open and modernize, peacefully, one's own societies. So they abuse modernity. V.S. Naipaul, the Nobel Prize winner for literature, in his recent book affirms both Hoffer and Ajami's analysis. The fanatic takes us, as Naipaul called his book, *Beyond Belief*. The fanatic takes us beyond belief.

Honourable senators, our fight is for the hearts and the minds of the masses who have one and only one model of purity, singularity and domination presented to them. Certainly it is not the model of pluralism and diversity that has propelled Canada and the West to an ever upward economic spiral. This is the model they wish to destroy. This is the model they wish to demolish.

What can we do beyond the military option? Obviously, we must quarantine and crush the cells of fanaticism planted among us and paralyze the financial tentacles of the networks back to the hubs, to the transponders of these cancerous cells, and eradicate them, if we can. Here we can use the same financial networks if there is a consistent, committed, multilateral effort to do so. Canada can lead the way here. Canada is respected in all international financial circles around the globe.

Like the fight against cancer, we need all our tools: media, military, strategic, intelligence, financial and diplomatic, to fight this new war on all fronts and destroy the equilibrium of the networks that expropriate our open avenues of commerce and liberty. That is easier said than done. The taxes of terrorism are high, from more security to defences against the illusive threats.

• (1530)

There are, however, modest steps that can be taken on the offence. First and foremost, we must demonstrate how the Canadian model of openness and diversity works as an economic growth model. How can we do this quickly? First, we should reinstate Radio Canada International. We should consider a global television network combining the best of CBC and private Canadian broadcasters to broadcast abroad.

Next, we need a diplomatic agenda of action. To these farther reaches, we must re-order priorities within the Department of Foreign Affairs. Canadians, who are respected in the very places we neglected, yet where we are prepared to send our troops, have no diplomatic representation whatsoever on the ground, nor intelligence, in Central Asia. In that corner of the globe, we have only one solitary diplomatic outpost. We need our diplomats on the ground in that part of the world. We must enter into a new strategic and military alliance with Russia. Russia is struggling in its democratic evolution. We must not marginalize Russia by the thoughtless expansion of NATO. We must re-energize the NATO coalition consensus, especially those EU partners who are now flagging and appear divided. We must engage Turkey, the only secular Muslim democratic state in the world to play a greater role in NATO and in the coalition itself. We must persuade our EU allies to assist Turkey to enter the circle of developed states sooner rather than later. Turkey has been waiting for decades to join the EU and still it sits at the end of the EU queue.

We must galvanize the Commonwealth as Mr. Pearson did to join this coalition of democracy against fanaticism. Our colleagues in Australia, New Zealand and Great Britain can be robustly enlisted in this effort.

We must instigate the Organization of Security and Co-operation where Canadians, myself included, play a proud and active role. There, Canada and the U.S. and many of the affected Central Asian countries are equal members as messengers of democratic practices and principles ready to present a model of governance in the aftermath of the military option. This we can do today.

Sooner than later we must quarantine and isolate as "pariah states" those that covertly support this fanaticism. We know who they are. We must be on guard against them.

We must harness Canada's multicultural leaders and send them abroad, back to these regions as goodwill ambassadors of Canada. We have great Pakistani, Afghani and Kirghiz natives in Toronto and across Canada. We must harness the power of these multicultural leaders and send them abroad to preach the Canadian economic model of prosperity, diversity and democracy. There cannot be economic prosperity without diversity and there cannot be diversity without democracy and the use of the rule of law.

We cannot neglect our relations with the U.S. where more than 85 per cent of our two-way trade is transacted. Just as we need a minister to mobilize against terrorism, we need a "super minister" to take responsibility for our relationship with the U.S. We suffer from clogged corridors and trade disputes. We need to immediately regain our mutual zone of confidence.

At home, of course, we must move swiftly to cut the lifeblood of fanaticism, the financial networks and safe houses at home and do this in conjunction with our friends and allies around the world. We should consider establishing one Web site where citizens can swiftly interface their knowledge about fanatic terrorist support at home and abroad. People on the streets of Toronto know about this. I recently heard on CBC midday radio a Lebanese cleric in Toronto, a recent immigrant, complaining

about his fears and those of his moderate parishioners against other more fanatical members of his own church on Queen Street in Toronto. I wondered, as I listened to the interview, whether there was anyone out there to respond to his plea of fear.

We can devise means to assist those who wish to fight fanaticism amongst their own ranks. Violence can never be a substitute for the commerce of peaceful, political negotiations and democratic settlement. Trudeau reminded us that we should never confuse a "just" defence of civic order against those who are compliant to unbridled violence targeted at innocents.

Honourable senators, fanaticism is not a clash between civilizations. It is a grand battle of ideology that seeks to eradicate every principle of liberal democracy that we hold dearly. We know that liberty, too, has its costs. Camus counselled us against those fellow travellers such as Sorel and Sartre and others who preached the "ethics of violence" as a means for those who desire political change. Senators should read Sorel's *Reflexion sur la Violence* to remind us that nothing has changed when intellectuals counsel or appease violence as a political tool either at home or abroad.

Regretfully this grand battle will not be over in a day or a week, a month or a year or even a decade. Yet, as Churchill once said at another fateful moment, "Let us begin."

Politics *est res dura*. Politics is a hard thing. Yet we need new, fresh political ideas to mobilize public opinion against this latest, most obdurate threat to liberty in our lifetime. Then, honourable senators, we can sing aloud again, "O Canada, glorious and free."

On motion of Senator Stratton, debate adjourned.

STUDY ON MATTERS RELATING TO FISHING INDUSTRY

REPORT OF FISHERIES COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Fisheries entitled: *Aquaculture in Canada's Atlantic and Pacific Regions*, deposited with the Clerk of the Senate on June 29, 2001.—(Honourable Senator Comeau).

Hon. Gerald J. Comeau: Honourable senators, I rise to speak on the third report of the Standing Senate Committee on Fisheries entitled *Aquaculture in Canada's Atlantic and Pacific Regions*, which was tabled with the Clerk of the Senate on June 29, 2001. Last year, the committee conducted a series of informal fact-finding meetings on the east and west coasts of Canada to discover firsthand the challenges and constraints facing the aquaculture sector. These informal discussions were later supplemented by video conferences and recorded hearings here in Ottawa.

There were many reasons for undertaking a study of aquaculture, also known as fish farming, not the least of which is that farmed fish and shellfish ultimately end up on our dinner plates.

[Translation]

In Canada, supporters of aquaculture say that it is a rural activity providing precious jobs and numerous economic benefits to coastal communities hard hit by the depletion of wild fish stocks, that it supports the traditional fishery, that it provides undeniable opportunities in the related technology and services sectors, and that its development possibilities are astonishing.

[English]

Around the globe, the fishing industry has been undergoing a historic transition. Referred to as the "blue revolution" in food production, fish farming has become the source of a steadily increasing percentage of the seafood consumed worldwide. In Canada, where aquaculture represents about one quarter of the value of the fish and shellfish catch, proponents of the industry argue that regulatory constraints will hurt the sector's expansion of jobs, or will cost jobs, and that the government's support of industry expansion should naturally follow.

• (1540)

With only two decades of significant commercial production, Canada's aquaculture sector is relatively new, but it has also been growing and evolving. Its complexity and level of development also changes notably from one province to the next.

Although aquaculture is a growing activity in the inland provinces, the committee limited the scope of its study to the maritime coastal provinces that dominate production. Committee members can certainly attest to the fact that there are many examples of successful enterprises on both the Atlantic and Pacific coasts. According to preliminary estimates by Statistics Canada, the industry generated revenues of \$674 million in the year 2000.

Honourable senators, aquaculture promises significant future economic benefits. This is especially so in Nova Scotia and Newfoundland, provinces where finfish farming is relatively new and where participants can learn from past mistakes. This is also the case for the cultivation of shellfish, activities that are generally considered to be environmentally friendly and that appear to offer economic opportunities for small entrepreneurs.

The enhancement of the sea ranching of shellfish such as scallops holds the promise of increasing stocks for commercial fishers in the traditional capture fishery. Some coastal communities embrace fish farming as an economic generator. However, others have misgivings.

Much of the debate centres on the possible environmental consequences of salmon farming, especially in British Columbia and New Brunswick where almost all the farmed salmon in this country is produced, where 83 per cent of all fish farming revenues are originate, but also where industry regulation has fallen quite short of the expectations of many. Concerns include the potential ecological and genetic effects of escaped farmed salmon on local fish species, the interaction of fish farms with aquatic animals and other animals, the incidence of disease in farmed and wild stocks, and the possible environmental risk associated with fish farm waste, to name only a few. Some

believe aquaculture and traditional fisheries to be mutually exclusive.

Suffice it to say that a major challenge faced by government now and in the years ahead will be to achieve an acceptable balance between various competing uses of the marine environment. Opinions are divided, but there would appear to be at least some common ground in the form of shared interests and objectives. For example, neither side wants to see the escape of farm fish or the transmission of disease, and both want a clean environment as well as more research. In at least some respects, aquaculturists, environmentalists, conservationists and fishermen are potential allies. The difficult task at hand will be to build on common interests and cooperate to ensure that aquaculture will be environmentally sustainable and economically successful in the future.

While the salmon farming industry has no doubt made significant progress in its management practices, the sector's ecological impact, or footprint, is largely unknown.

At this point in time, it may be fairly said that science firmly supports neither side of the environmental debate, and without sound scientific knowledge, it is difficult to see how regulatory agencies can set meaningful environmental standards and objectives. Without sound scientific knowledge, distrust of the industry will continue. Our study points to the need for much more research to address concerns, and more research will require an investment in additional resources.

It may be reasonably argued that the findings of further scientific study may not provide the answers quickly enough. On reducing risk, the precautionary approach, commonly referred to as erring on the side of caution when dealing with uncertainty, would be a prudent course to follow.

In many respects, the aquaculture report is a snapshot in time. A number of major developments, announcements and reports occurred during the course of our study.

[Translation]

Accordingly, in August 2000, the Department of Fisheries and Oceans launched the Program for Sustainable Aquaculture, known as the PSA, which provides \$75 million in funding over five years. In February 2001, the Auditor General of Canada tabled chapter 30 of his December 2000 report. The same month, an expert panel established by the expert panel committee of the Royal Society of Canada tabled a report on the regulation of food biotechnology, which included a chapter on aquaculture. In June 2000, in the first phase of a review of legislation and regulations on aquaculture, the Commissioner for Development of Aquaculture submitted 36 recommendations to the Department of Fisheries and Oceans. His report, dated March 2001, was released at the end of April this year.

[English]

In British Columbia, where most of Canada's finfish aquaculture output is produced, the newly elected provincial government appears to favour lifting the 1995 moratorium placed on the expansion of new salmon farms.

In early September, citing the findings of the Auditor General of Canada and those of the Senate committee, the David Suzuki Foundation took what it calls the extraordinary step of raising funds to set up an independent citizens inquiry on salmon farming headed by Stuart Leggatt, a retired Justice of the British Columbia Supreme Court and Ethics Commissioner for the Vancouver Whistler bid for the 2010 winter Olympics. Federal and provincial authorities have since announced, on September 25, that they would not participate in the inquiry.

If the broad coverage of the committee's report in the print media and the many domestic and foreign sites on the World Wide Web that link to it are any indication, our work has been worthwhile. At the very least, it has highlighted the more salient issues and has helped focus government and public attention on these issues.

The House of Commons Standing Committee on Fisheries and Oceans has been conducting a similar study on fish farming for some time now, and I look forward to that committee's report in the not-too-distant future.

In closing, I thank the committee members for their hard work and perseverance. On their behalf, I also thank the many individuals and organizations who so generously made time available to participate in our study. They include finfish and shellfish farmers, fish farm workers, interest groups, research scientists, veterinarians, members of the public and federal and provincial government officials, including the federal Minister of Fisheries and Oceans who appeared before the committee on two occasions.

[Translation]

Hon. Pierre Claude Nolin: Honourable senators, could Senator Comeau indicate why the French title indicates it is an interim report, but the English title does not?

Senator Comeau: Honourable senators, the report is entitled "interim report." If we table reports in the Senate before the end of a given mandate, the report is called "interim report." In fact, it is the final report on aquaculture for the moment, and we are analyzing other studies.

[English]

Hon. Nicholas W. Taylor: Honourable senators, I have a question for Senator Comeau.

The federal government has authorization over fisheries, particularly inland fisheries. It is intriguing, as I discovered while considering Senator Grafstein's bill on water and the Food and Drugs Act, that water can be poisoned or made so dirty people that will die, which is not a federal responsibility, yet if fish die, the federal government comes after you.

Taking that thought and projecting it into what the senator is talking about, is fish farming a provincial or federal responsibility? Where is the line?

Senator Comeau: Honourable senators, as I understand it, when inland or marine fish are in the water, either being raised or

as wild fish, the responsibility is federal. The ocean or lake habitat in which the fish live happens to be a federal responsibility.

I am glad the senator asked this question because it relates to the next portion of our study. Senator Nolin asked a few minutes ago whether this was an interim report. The next phase that the Fisheries Committee wishes to study is the question of habitat, whether we, as federal parliamentarians, are placing enough attention on the value of habitat and whether government programs are protecting the habitat of future generations. In the future, you will be hearing from us again on this subject.

• (1550)

The subject of whether one can throw poison into the water, and it only becomes a federal responsibility once the fish is poisoned, is quite interesting. I imagine the federal government would have something to say about that matter, but once the fish leave the water they become a provincial responsibility, they become a product of the province. The federal government might come back in again once the fish leave the provincial borders and go into a foreign jurisdiction. Once the fish leave the provincial borders they become a federal responsibility again, under an export provision of Health Canada.

Honourable senators, this is a rather complicated set of rules. One can imagine the poor fishermen who try to put some kind of framework around all of this. They need to hire a Philadelphia lawyer to understand these rules.

Hon. Willie Adams: Honourable senators, I am a member of the committee. We have a little difficulty, especially in Nunavut and Nunavik. Right now there is a law that allows fish hatcheries in the South. At one time we had Arctic char commercial fishing in some of the communities. Some of the people who own restaurants in the South and bought char from northern communities are now finding it too expensive. Therefore, they have switched to buying Arctic char from hatcheries in the South.

In a trip down to Iqaluit a couple of years ago, we found out from the Department of Fisheries and Oceans that they are not concerned about commercial fishing by natives because they have no jurisdiction. The government recognizes that people of Nunavut and the territories are living off the land and the sea — the fish and caribou — but there is no recognition from Ottawa of our people having a commercial fishery.

In the community of Pangnirtung we had 40 fishermen who were seeking funds from the Government of Canada to buy a dragging boat. They were told that the federal government was not responsible, that they would have to go to St. John's, Newfoundland, to find out what the Department of Fisheries and Oceans has to say about that proposal. I am really concerned. We no longer have commercial fishing in the communities, except for Pangnirtung.

What is the future of Arctic char in the North, now that the fish hatcheries in the South are forcing fishermen out of their jobs in the communities?

Senator Comeau: Honourable senators, Senator Adams raises two extremely important subjects. When our committee visited his area, many of the people raised these two issues. One was the question of Arctic char being raised in some of the southern aquaculture sites, precluding the sale of some of the products that come from the North. The second concern was a question of adjacency, the fact that the people of Nunavut are not able to access the resources right off their shores, and that fishing fleets are coming from the South to supplement their fishing season. Why would the government not have in place measures to allow the people of the North to access the resources right next to their shores?

They make a compelling case. We, as parliamentarians, should ask the question of why can the people of Nunavut and Nunavik not have access to the resources closer to their shores? These are extremely important questions to which I heard no response that satisfied me, so it is a question we will have to answer.

[Translation]

Senator Nolin: Honourable senators, Senator Comeau raised the question of jurisdictions in his response to Senator Taylor. Did his committee examine the relationship between aquaculture and sport fishing? Is it studying the impact on the resource of sport fishing versus commercial fishing? Is it looking at relations between provincial and federal jurisdictions? In my opinion, the provinces have jurisdiction over sport fishing. Is his committee looking at this aspect? It strikes me as very complex. Where does federal responsibility begin and provincial responsibility end?

Senator Comeau: Does provincial responsibility begin at the site chosen? The province determines the locations of fish hatcheries. Once the fish is out of the water, the province has jurisdiction over it. The federal government is responsible for diseases that fish in cages could transmit to other fish. There are two jurisdictions.

In addition, the federal government is responsible for licences given to commercial fishers. This is another aspect. Commercial fishers have expressed some rather serious concerns about the farming of fishing, particularly salmon, trout and so forth.

As for the concerns of those who fish rivers for sport regarding fish escaping their cages and beginning to interact with wild fish, this comes under federal jurisdiction over the interaction between wild fish and hatchery fish escaping into rivers and into the ocean.

Discussions are underway between the provincial and federal governments to reach agreement on these jurisdictions. They are going very well. There are regular meetings, at least twice a year, between federal and provincial ministers. The relations between provincial ministers and the federal minister are quite good. The relations between fishers and the minister are sometimes not so good. It is a very complicated business.

On motion of Senator Cook, debate adjourned.

[English]

• (1600)

INTELLECTUAL PROPERTY RIGHTS OVER PATENTED MEDICINES

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Finestone, P.C., calling the attention of the Senate to three diseases which are sweeping the developing world and which draw many to ask whether intellectual property rights over patented medicines haven't taken precedence over the protection of human life.—(Honourable Senator Poy).

Hon. Vivienne Poy: Honourable senators, I wish to speak to the inquiry introduced by the Honourable Senator Finestone. Senator Finestone provided us with some background information about the three diseases that are sweeping developing countries.

As the honourable senator noted, taken together, HIV/AIDS, tuberculosis and malaria kill 4.1 million individuals per year. Aside from these diseases, there are many others that are endemic to developing nations. Why is this happening and what can we as Canadians do to prevent this tragedy?

Drugs to combat many of these diseases are simply not available. One of the reasons for the lack of availability is ignorance, as my learned colleague Senator Finestone emphasized. A new report by Médecins Sans Frontières entitled "Fatal Imbalance: The Crisis in Research and Development for Drugs for Neglected Diseases" argues that the health revolution of the past 30 years that has improved the life expectancies of many in the Western world has left much of the developing world behind. This is because most research and development focuses on Western diseases while neglecting tropical diseases that take an enormous toll on those living in absolute poverty.

According to the report, only 10 per cent of global health research is devoted to conditions that account for 90 per cent of the global disease burden. This research vacuum exists despite the fact that the World Bank has found that eliminating communicable diseases would almost completely level the mortality gap between the richest 20 per cent of the world's population and the poorest 20 per cent.

It is clear that research and development is not at the service of public health but, instead, is harnessed to profit. Governments, therefore, must play a role. Public policy must develop strategies to address neglected diseases specifically. One option is public-private partnerships involving universities, governments, NGOs and private companies. Another is a policy whereby a specific percentage of pharmaceutical profits from newly patented drugs would be channelled into research on neglected diseases.

However, there are drugs that already exist to fight some diseases, such as tuberculosis. TB was a major problem in Canada less than 50 years ago. In 1953, there were 19,000 beds in hospitals in Canada allotted to TB patients. As a result of a systematic treatment program, tuberculosis was virtually eliminated. I say "virtually" because TB is still killing people in Canada, and it remains one of the biggest killers in other parts of the world, with numbers of deaths rising. It is clear that if we are to eliminate TB in our borderless world where immigration is commonplace, we must apply the same principles of access to medication to developing nations as we have in Canada.

Medicines are also available to treat AIDS. Some 20 years after the first case was identified, AIDS is no longer a death sentence as it once was. Since the mid-1990s, it has been treatable with a cocktail of drugs called the highly active anti-retroviral therapy, or HAART. HAART dramatically reduces suffering and increases life expectancy, allowing patients to live comfortably with a chronic disease. However, since 95 per cent of the 36 million HIV-infected individuals in the world live in low-income countries, only a small fraction of these people have access to HAART. In Africa, access is limited to only about 10,000 out of 25 million HIV-positive individuals.

AIDS has already taken 22 million lives worldwide and created more than 13 million orphans. An estimated 4 million new infections occur every year. In the end, no country will escape this disaster. The disease promises to fundamentally destabilize the social, political and economic fabric of the world.

Currently, development is being eroded in many of the world's poorest countries. For example, Botswana, which has long been considered an African success story, has already had its life expectancy dropped by 25 years to 44 years, and this may decline to as low as 29 years if the spread of the virus is not slowed or reversed. President Festus Mogae warns that the country, in which one third of the adult population is infected, faces the prospect of extinction.

Last spring, I attended a speech given by Mr. Stephen Lewis, who is the special envoy named by the United Nations to deal with the HIV/AIDS epidemic in Africa. Mr. Lewis told the audience about the accelerated access agreement reached by UNAIDS with a number of the world's major pharmaceutical companies to furnish anti-retroviral drugs to poor countries at a reduced cost. Negotiations led to agreements on price reductions in four countries — the Ivory Coast, Rwanda, Senegal and Uganda.

The rules were that countries would receive discounts of up to 90 per cent in exchange for pledging to respect patent rights and not allowing lower priced drugs to enter the black market. This would appear to be a good example of a public-private partnership that could potentially lower the cost of drugs for AIDS.

What happened? By early this year, the accelerated access initiative had not produced the expected results. Prices were still being maintained significantly above production costs. Meanwhile, generic drug companies, particularly in India, were

offering to supply products to South Africa at a lower price than the accelerated access price. In what Stephen Lewis called a "double and duplicitous game," the major drug companies were fighting to keep the cheaper generic drugs out of South Africa by taking the South African government to court to stop it from engaging in parallel imports, a practice that is specifically authorized under the Trade Related Aspects of Intellectual Property Rights agreement, or TRIPS, in the case of public health emergencies. The reason drug companies cited for the court challenge was the need to maintain profits to fuel research and development, despite the fact that Africa represents a little more than 1 per cent of the total worldwide drug market. In April of this year, the pharmaceutical companies backed down.

Faced with bad PR internationally, the pharmaceutical companies are heralding a new study published on October 17, 2001, co-authored by Amir Attaran of the Harvard Center for International Development and Lee Gillespie-White of the International Intellectual Property Institute, which claimed that patents were not the issue in the battle against AIDS. Médecins Sans Frontières and other NGOs argued that the study was misleading and that it was an attempt to sabotage the initiative of the developing world to break down the barriers to access to medicines.

Stephen Lewis and NGOs such as Oxfam, Médecins Sans Frontières and many African countries are unanimous in supporting a "public health" interpretation of TRIPS.

• (1610)

In September 2001, at a TRIPS council session on access to medicines, 60 developing nations jointly issued a statement arguing that "nothing in the TRIPS agreements shall prevent members from taking measures to protect public health." Developing nations are being supported by the European Union. However, their joint declaration, which will be considered at the next WTO ministerial conference, has been opposed by the United States, Switzerland, Japan and Canada. If nothing changes, beginning in 2006, all WTO members will be obligated to grant 20-year minimum patents for medicines.

Perhaps Canada's position needs to be reassessed in the light of the potential of our own public health emergency. Bioterrorism poses an imminent threat. In light of the current situation, a broad interpretation of the term "public health emergency" in TRIPS may be necessary in order to ensure that patents do not override global health concerns, whether in Canada or in other parts of the world.

Developing countries suffering under the burden of diseases need to have access to the cheapest drug available, regardless of whether it is produced by a generic drug company or a brand-name company. Both India and Brazil already have developed the capacity to manufacture a wide variety of generic drugs that could be exported to other developing countries. In Brazil, the introduction of generic anti-AIDS drugs has led to a 79 per cent reduction in the price of drugs. As a result, mortality rates from AIDS have dropped by 50 per cent. HAART has also been made available in Thailand, Costa Rica and in a pilot study in Haiti.

Other countries have been less lucky. There are gross price discrepancies from one country to the next. Let me give you one example of how radically prices can differ from country to country. Last year, Médecins Sans Frontières reported that a drug called fluconazole, which treats a form of meningitis common in HIV-positive individuals, was priced at U.S. \$1.20 per daily dose in Thailand for a generic version, compared to U.S. \$17.84 per daily dose in South Africa for the patented drug. The discrepancy has since been corrected by the manufacturer, after a public outcry.

Three factors are necessary if widespread treatments are to be made available in developing countries. They are as follows: research and development, affordable drugs, and international aid, designated specifically for this effort by donor countries. If change is to happen, it will depend on the political will of the international community.

The protection of intellectual property rights cannot take precedence over the protection of human life. Countries such as the United States are currently attacking parallel importation, which allows for the importation of medicines from foreign countries at lower cost, and compulsory licensing, which allows for production of medicines by other than the patent holder. Both these trade practices were specifically included in TRIPS to be used in instances of public health emergencies or in the case of unfair pricing practices. Canada must defend these provisions at the WTO so that generic drugs are made available to developing countries where health crises exist.

It is also important to note that in many cases developing countries cannot even afford to pay the lowest prices available for drugs. Often, the yearly cost of a drug, even if it is priced at the cost of production, may be more than the annual per capita income of many families. A global tiered pricing strategy, as suggested by Médecins Sans Frontières, would allow for lower priced drugs in the developing world with research and development being funded by standard prices in the developed world.

CIDA's resources are currently stretched to the limit. For example, last year, Canada spent 0.25 per cent of its gross national product on official development assistance, the lowest portion in the 35 years since major foreign aid programs were established. More money is needed if CIDA is to have any effect on stemming the tide of disease sweeping across the developing world.

The world is a global village; we cannot afford to neglect the needy, who now make up the majority of its citizens. The decision to act to provide affordable and accessible medicine is a pragmatic decision because the future of developing nations is ultimately our future. Otherwise, the results of this death toll will be weakened economies and fragile political and social structures. For too long we have ignored developing nations, their poverty, their diseases and their conflicts, assuming we lived in a protected world. Since September 11, we know the world is a much smaller place. Nevertheless, if we are to act to fight against the ravages of disease, the decision must be based not on self-interest but on our common humanity. In this international effort, Canada needs to take a leadership role.

Honourable senators, we cannot allow more people to die when we have the means to save them.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, this inquiry has taken on a new importance since Senator Finestone initially commenced it by drawing our attention to the whole issue of intellectual property rights as it relates to patented medicines. The honourable senator who has just spoken has eloquently and thoughtfully identified some of the issues that may very well cause Parliament to revisit the 1993 drug Patent Act.

We are very fortunate to have in this chamber Senator Day, who is an expert on copyright matters. I would hope that we can draw him into our debate on this important, timely topic because of the events last week when the Minister of Health, quite wrongly, in my opinion, allowed his department to arbitrarily break the drug patent law.

Hearing a defence of that illegal act made in terms of, "Well, there is an emergency," I looked at the drug Patent Act. As Senator Poy is indicating, there must be circumstances when the life of individuals, indeed, the life of whole communities, may be at stake, given the threat of bioterrorism in the world that we live in today. Perhaps it is very important that we revisit this question.

On the one hand, we recall from the earlier arguments that were made when we were looking at that legislation that if we are to have in the pharmaceutical research community the kind of ongoing research to identify means, techniques and medicines that can respond to old diseases and new ones, they must be motivated. They must have the means with which to do this, unless the states will be sponsoring all the necessary research. That research is done by the pharmaceutical companies at tremendous cost, and they recover their costs if they successfully come up with a new medicine that is successful in combating a given disease.

• (1620)

We must be very cautious not to paint people into boxes, that somehow the company that makes the investment in the research comes up with, as a result of good research, a new medicine, has a patent on that medicine for a period of time, to allow them to recoup their research investment cost. We do not want to dissuade them, surely, if it is to have the effect of discouraging research. That is, unless the states will come to the table and say, "We will pay for all the ongoing research." I do not think that is in the works.

Having mentioned the metaphor box, I think we honourable senators are very much living in a time when we must start thinking outside of the box. We will have to reach down and draw on creativity like never before because the circumstances in which we find ourselves these days have never been before us. Many of our colleagues, who are in the pre-study committee as we speak, will have to be creative there. The government is doing its job and I give it full credit for attempting to come up with appropriate responses and with the new tools that are necessary to combat terrorism. I have no quarrel with that, but we equally must be creative in coming up with new safeguards so that there is the proper oversight.

I agree with Senator Poy also in the area of drug patents. We do not have to throw the proverbial baby out with the proverbial bath water. I would draw the attention of honourable senators to what we have in place already. It is not bad. Subsection 19(1) of the Patent Act provides:

19(1) Subject to section 19.1, the Commissioner may, on application by the Government of Canada or the government of a province, authorize the use of a patented invention by that government.

We have a legislative framework in place that can respond to the exigencies that have been described by our colleague Senator Poy. That, unfortunately, was not followed last week, and we must learn from that. We must learn from what happened last week in terms of emergency and the panic that may occur in public administration circles. People are anxious to respond, but it is important that they respond within the context of the rule of law. Here is a provision that clearly states that the commissioner of patents can receive an application from a provincial government or from the Government of Canada, and it may very well authorize the use of a patented invention. This applies, for example, to the minister responsible for CIDA. If we are intervening in one of the countries to which CIDA contributes, it may very well be legitimate for the CIDA minister to make application to have the patent set aside so that a cheaper copy could be made and provided to the country that we are aiding.

It is noteworthy that, subject to that section, the use of the patented invention may be authorized for such purposes, for such periods and on such other terms as the commissioner considers expedient. However, the commissioner shall settle those terms in accordance with the principles — and this is important — which are as follows:

19(2)(a) the scope and duration of the use shall be limited to the purpose for which the use is authorized;

(b) the use authorized shall be non-exclusive; and

(c) any use shall be authorized predominantly to supply the domestic market.

That raises the following question: How do we get around a CIDA intervention? Subsection 19(3) states:

The Commissioner shall notify the patentee of any use of the patented invention that is authorized under this section.

Clearly, had that been done last week, pursuant to the statute, the scandalous situation that the Minister of Health found himself in when Bayer announced to Canadians Friday evening that it had 1 million Cipro pills in its warehouse in Toronto would not have occurred.

Subsection 19.1(1) states:

The Commissioner may not authorize the use of a patented invention under section 19 unless the applicant establishes that —

— that would be either a federal government or the provincial government —

(a) it has made efforts to obtain from the patentee on reasonable commercial terms and conditions the authority to use the patented invention...

That did not happen last week at all. There was no negotiation within the meaning of that section. The statute goes on to state:

(b) its efforts have not been successful within a reasonable period.

Again, there is a failure on the part of either the government or the Minister of Health. This is very important because we have heard the phrase “national emergency” come up several times. Subsection 19.1(2) states that this whole area of the application of the act is not applied in cases of national emergency or extreme urgency, or where the use for which the authorization is sought is a public non-commercial use. This exception clause does speak quite directly and in plain English of national emergency or extreme urgency.

The point I want to make, honourable senators, is that we do have a framework. The framework was developed and adopted in Parliament. Both sides of the equation were thoroughly examined by members not only in this place but also in the other place. If we are to return to this issue, we must do so in an open manner. I would not be hesitant at all for us to do that.

• (1630)

In her remarks, the honourable senator made reference to the availability of generic drugs manufactured in India. I do know that an Indian generic drug maker last week offered to supply the United States with 20 million anthrax antibiotic tablets a month, reopening the controversy about whether drug patents should hold in medical emergencies. What was interesting about the offer of that particular pharmaceutical company in India is that they were able to produce the drug at one-thirtieth of the cost. If that drug could be copied and produced at such a tremendously low price compared to the commercial price, then it makes a very attractive argument from the commercial standpoint — that is, from the purchaser's point of view — to go offshore in search of generic manufacturers. However, that raises other questions, including the health protection dimensions of medications, generic or otherwise, that we would be using in Canada. An important topic is raised with this inquiry, perhaps far more important because of recent events.

On motion of Senator Keon, debate adjourned.

CANADA-TAIWAN PARLIAMENTARY FRIENDSHIP GROUP

INQUIRY

Hon. Lorna Milne rose pursuant to notice of June 14, 2001:

That she will call the attention of the Senate to the recent trip by the Canada-Taiwan Parliamentary Friendship Group to Taiwan on May 18 to 25, and to the issues which were raised and discussed by the delegation with representatives of the Government of Taiwan.

She said: Honourable senators, rather than bore you with a blow-by-blow account of our trip to Taiwan in the spring, I will just give you the bare bones of the trip and urge you to read the daily details of our individual meetings with dignitaries.

The details are in this report that, with the permission of the Senate, I will now table with the clerk.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Milne: I will try to give honourable senators a flavour of the island, because Canada's connections with Taiwan are of great importance. I will also offer some of my conclusions arising from the trip.

The members of the official delegation were Senator Finestone and myself from the Senate, and Alan Tonks and Ghislain Lebel from the other place. We were accompanied by appropriate spouses, and also by James Tien, the director of the public affairs division of TECO.

We were in Taiwan from Saturday, May 19, 2001 until the following Friday, May 25, 2001. While there, we visited the following people, places and sites: Kenting National Park Headquarters; the National Museum of Marine Biology and Aquarium; Sun Yat Sen University; the city hall in the port city of Kaohsiung; the Department of Economic Affairs; Vice-President Annette Lu, who was standing in for the president who had just left to visit South America via New York; Premier Chun-hsiung Chang; deputy foreign minister Tzu-dan Wu; Taiwan's science-based industrial park; the Mosel company and officials; the Taiwan Power Company; the Atomic Energy Council; the Ministry of the Environment; the National Youth Commission; the deputy speaker of their government; the Chinese National Association of Industry and Commerce; the China External Trade Development Council; and the Taiwan World Trade Center. We certainly needed a seven-day rest when we came home. We covered much ground in five or six days.

Taiwan is an island about the size of Vancouver Island. It has a population of over 22 million people. Most delegations that go to the island do not get very far out of Taipei, at the north end of the island. We were lucky enough to fly to the south end of the island, to a tropical area about an hour outside of Taipei. On the way there, we caught glimpses of the interior of the island, made up of five mountain ranges, heavily treed and rugged. As we flew

over the area, it was evident why only one quarter of Taiwan is arable.

Coming into the airport at Kaohsiung, we had a great aerial view of the vast port facilities there. There were huge cargo ships anchored offshore waiting to enter. Kaohsiung is the heavy industry capital of Taiwan, with an enormous shipbuilding facility, a huge container port and a large oil refinery. Taiwan's steel industry is also centred there and their third nuclear generating plant is nearby. Kaohsiung is the fourth busiest port in the world, after Hong Kong, Rotterdam and Singapore. Officials there would very much like to be twinned with a Canadian port city.

While in the south, we visited the headquarters of Kenting National Park. The park consists of 33,000 hectares spread along the southern coastline of the island. Many thousands of people live within the borders of the park, but most of the land is owned by 3,000 Aboriginal inhabitants. Most of the land in the five national parks in Taiwan is owned by their aboriginal people, descendants of early proto-Austronesian people. These people are more closely related to present day Polynesian and Maori people than to the people of mainland China.

The waters in this area are full of coral reefs and beautiful tropical fish, perfect for skin diving if one is so inclined. The above-water shoreline rocks are mainly the eroding remains of coral reefs. The entire shoreline is slowly rising as one tectonic plate slides beneath another in the area. As a result, Taiwan has over 2,000 earthquakes a day, most so small that one cannot feel them, but they register on scientific instruments.

The park receives about 2,500 millimetres of rain each year. Most of the rain occurs during the five-month rainy season; the rest of time it can be pretty dry. Taiwan is also hit by three or four typhoons each year. While we were there, the temperature was about 30 degrees every day and extremely humid.

While we were at the National Sun Yat Sen University in Kaohsiung, we met a Canadian citizen, a woman who spent much of her life in Ottawa, Mrs. May Lin. She was a most forceful advocate for the recognition of Taiwan, claiming that the people of Taiwan are truly Taiwanese now, not Chinese. According to her recital of Taiwan history, China has never exerted any effective control over Taiwan. It was first an island of the proto-Austronesian aboriginal tribes. About 400 years ago, people fleeing the Chinese dynasty of the day from Fujian province began to colonize it, seeking freedom from China. The government of the day in China considered that Taiwan was a barren wasteland not worth bothering about. These Fujianese people intermarried with the aboriginal inhabitants, so that there are now very few people left of the aboriginal blood, only 2 per cent of the population. Both the Dutch, who named the island "Formosa," meaning beautiful island, and the Spanish sent colonists to Taiwan to set up colonies in the early 1800s. By the late 1800s, the British had arrived but only considered the island a base from which to attempt to control the pirates who swarmed around the islands at that time. They never considered Taiwan to be a colony. The Japanese arrived in Taiwan in 1895 and they governed there until the end of the Second World War.

When the communist forces on the mainland won the civil war in China, in 1949, Chiang Kai-shek and his Republic of China government relocated to Taiwan. This was the first time that a Chinese government, even though it was in exile, had accurately claimed to govern the island. Since then, the 15 per cent of the 1949 population who came with Chiang Kai-shek, and who were truly Chinese, have gradually intermingled with the resident Hakka, Fujian and mixed people of Taiwan. People like Mrs. Lin claim, and I believe very proudly and accurately, to be Taiwanese.

When we were back in Taipei, the executive director of the Canadian Trade Office, David Mulroney, provided us with an excellent briefing. I will go through it briefly because he spoke of Canada's ties with that island.

Canada has donated over \$500,000 to earthquake relief in Taiwan, half through the Red Cross and half through other NGO bodies. The trade office has kept up its efforts to try to lessen the disastrous effects of the 1999 earthquake by gathering books to be donated to some of the remote aboriginal schools that lost everything. Senator Finestone and I handed over the large bag of books that we had taken over for that purpose.

• (1640)

The Royal Ontario Museum in Toronto lent its McKay collection of Taiwanese Aboriginal artifacts, the finest in the world, for display in Taipei beginning in June on the one-hundredth anniversary of Dr. McKay's death. Dr. McKay was a Presbyterian missionary from Oxford County in Ontario who spent most of his life in Taiwan. He started not only a mission in Tamsui but also began a school there, which he called Oxford University College. He began a medical clinic and experimented with natural medicines. During his years there, he accumulated this wonderful collection of early Aboriginal artifacts from the area.

A Taiwanese Aboriginal dance group also left for Canada while we were there in Taiwan. They performed here in Ottawa, in Niagara Falls, Mississauga and Toronto.

The Bata Shoe Museum of Toronto set up an exhibition that was opened by Mrs. Sonja Bata there in June. The Royal Winnipeg Ballet visited in June. Many young Canadians go to Taiwan to teach English as a second language also.

From the official point of view, the Canadian trade office there is the largest issuer of visas for visits to Canada in the world; 150,000 were issued from there last year and they have a 36-hour turnaround in processing. There are presently between 7,000 and 10,000 Canadians registered as living in Taiwan, but there are probably more who have not registered with the trade office. They issue 1,200 Canadian passports per year. They issue many student visas and are trying to build up an alumni group in Taiwan, mainly promoted through educational fairs.

The trade office's "9/21 initiative" — named in remembrance of the earthquake — gives the message to people there that Canada still does care and still remembers them. As I said, the Aboriginal areas were hit the hardest.

The Canadian Trade Office in Taipei runs a "Business Partner Seminar" regularly and is pushing aerospace, transportation, environmental products and services, biotech products and services, agri-food. There is Cdn. \$250 million worth of trade in agri-food with Taiwan every year. In addition, the trade office pushes venture-100 capital funds, looking for investment possibilities there.

Matthew Lien, a folk singer from the Yukon, is one of the most popular singers in Taiwan.

The trade office also sponsors the annual Terry Fox Run.

It is obvious that our connections, both cultural and business, are numerous and important to both countries. Our meeting with Taiwanese Vice-President Annette Lu was rather discomfiting. She began by asking, point blank, why Canada does not officially acknowledge the Republic of China. She continued with questions about Canada's stance on Taiwan's expulsion from the UN back in 1971 and emphasized the fact that they have been paying their UN dues ever since with the expectation that they would eventually be reinstalled.

Vice-President Lu also made a point of mentioning the very enthusiastic reception that President Chen was getting in New York at that particular time on his way through to South America, with President Bush of the U.S. going to the length of saying that Taiwan should be accepted into the WTO before mainland China is accepted.

While we were there, we also attended a "triple occasion" at the Canadian Trade Office marking the opening of their newly expanded facilities, a farewell to the "Aboriginal Chorus" who were leaving for Canada the next day, and also our own visit to Taiwan. Members of the delegation were coerced into joining the Aboriginal dance group in a dance, and my wind is not what it used to be.

This "Aboriginal Chorus" troupe was established in an attempt to encourage the preservation of the rapidly disappearing culture of the nine Aboriginal tribes. These particular young people were members of the Amei tribe. Their features, costumes and style of dancing clearly indicated their close ancestral relationship with the Maori people of New Zealand.

Canada has signed a Memorandum of Understanding on cooperation between Canada and Taiwan on Aboriginal affairs. Since then, there have been many cultural events and exchanges between our two countries.

We met with the Honourable Chang Chun-hsiung, the premier of the country, who told us that many of their difficulties as a brand new democracy arise from the fact that they still must convince the general population and educate them in the new democratic ways. Canada and Taiwan still only have people-to-people relations through groups such as our Canada-Taiwan Friendship Group, but since Taiwan also believes in democracy, human rights and the rule of law, continuing dialogue between us is very important.

Taiwan appreciated our support during their missile crisis, but they want into the WTO and the WHO. They feel it is essential to protect and bolster their fragile position.

The Hon. the Speaker: Honourable Senator Milne, I regret to advise that your 15 minutes have expired.

Senator Milne: May I have leave to continue?

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Milne: In conclusion, we saw many things and visited many places. We toured the Mosel company in Hsinchu, which is presently investigating opening a very large manufacturing facility near Montreal. Mosel is the seventh largest manufacturer of microchips in the world.

Honourable senators, I believe that these informal trips to Taiwan by members of this friendship society will retain their importance to both countries at least until Canada formally recognizes Taiwan as an independent country. The contact between our governments at this time is only through the work of our trade office in Taipei, but any discussion of other matters comes about informally or through personal contacts between the individual politicians and the business people of our countries. I hope we reconsider our policy. Taiwan is a democratic country committed to human rights and the rule of law. It is also Canada's seventh-largest trading partner.

Canada seems to be highly regarded in Taiwan, yet the Taiwanese are very concerned about what they see as our lack of strong support on the issue of their admittance to the World Health Organization. They appreciated our support to gain observer status, and they hope to become a full member of that organization.

The issuance of Canadian visas remains an extremely sensitive point with the present leadership. They seem to ignore the fact

that our office in Taipei is the largest issuer of Canadian visas in the world.

The people of Taiwan are extremely entrepreneurial, but they are disturbed by their present unemployment rate of 4.5 per cent, which they regard as unacceptably high. As entrepreneurs, they have a high regard for Canadian business people and companies and are most eager to expand business ties between our two countries, as well as political ties.

I remain somewhat embarrassed by the fact that this one-sided "exchange" of visits is sponsored solely and entirely by the Government of Taiwan, so that visiting politicians could feel themselves to be under some obligation to that government for their hospitality, even though increasing Canada's political and business contacts with Taiwan is a valid and reasonable objective.

I note with some concern that Taiwan was excluded from this year's APEC meeting, the informal economic leaders meeting held just last week, even though Taiwan is a full and equal member of APEC. That not only threatened the interests of harmony in that prostrate region, but it deprived APEC of the contributions of a valuable member of the association.

In conclusion, in spite of the official "one China" policy of both the Taiwanese government and of our own government, the fact is quite obvious that the people of Taiwan are increasingly of mixed heritage and consider themselves to be Taiwanese and not Chinese. As soon as the Government of Taiwan officially stops claiming to be the "Republic of China," the legitimate government of mainland China, I firmly believe Canada should recognize this democratic and de facto independent country.

The Hon. the Speaker: If no other senator wishes to speak to this inquiry, it will be considered debated.

The Senate adjourned until Wednesday, October 24, 2001, at 1:30 p.m.

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OFFICIAL REPORT
(HANSARD)

Wednesday, October 24, 2001

THE HONOURABLE DAN HAYS
SPEAKER



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(Daily index of proceedings appears at back of this issue.)

OFFICIAL REPORT

CORRECTION

Hon. Lorna Milne: Honourable senators, on a point of order, I should like to correct an error in yesterday's Hansard when I was speaking on the Canada-Taiwan Parliamentary Friendship Group. On the last page of Hansard, page 1456, the second-last paragraph of my speech, I said "cross-strait" and not "prostrate."

THE SENATE

Wednesday, October 24, 2001

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

[Translation]

THE HONOURABLE LÉONCE MERCIER

TRIBUTES ON RETIREMENT

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I should like to say a few words in tribute to the Honourable Léonce Mercier, a good friend and colleague, on the occasion of his retirement.

I have had the privilege of working with him as both Deputy Leader and as Leader of the Government. However, other leaders before me have had the pleasure of working on a number of projects with Senator Mercier as government whip. If I may speak on their behalf, we have all found him professional, conciliatory and easy to get along with.

Senator Mercier started out in politics in the Saguenay—Lac-Saint-Jean region, in northern Quebec, a region known for its rugged terrain, its lakes and — of course — its blueberries. He worked many years in his part of the country to gain support for the Liberal Party of Canada. Nowadays, his region is known for its independentist tendencies and was long represented by the Honourable Lucien Bouchard. How could we possibly blame this on a colleague who has always defended his country with pride?

In 1995, Senator Mercier was in charge of the Action Canada campaign in his region. Its success is one of the numerous milestones in his thirty-plus year career in politics. He has chaired the selection committee and was assistant director and then director general of the Liberal Party of Quebec from 1978 to 1985.

In the late 80s, he worked very hard in Quebec for the election of our mutual friend and present Prime Minister to the leadership of the Liberal Party. Before he was appointed to the Senate, Senator Mercier was a businessman and consultant, as well as being a commissioner of Quebec's Régie des alcools, des courses et des jeux.

His activities did not slow down with his appointment to the Senate, and he sat on numerous standing committees of the Senate: Scrutiny of Regulations, Internal Economy, Budgets and Administration, National Finance, Social Affairs, Science and Technology, Transport and Communications, and two important subcommittees: Transportation Safety and Veterans Affairs.

Senator Mercier has had frequent opportunities to put his organizing talents to good use since his appointment as Government Whip. In 1996, his allegiances are clear and firm.

He respects his colleagues, and that respect is returned by them all, on both sides of the Chamber.

[English]

However, in my mind, the quality that most represents the Honourable Senator Mercier is his friendliness and lack of pretension. Since his appointment to the Senate in 1996, he has become known for his congeniality and sense of humour. Senator Mercier has made allies and admirers of many of us here in the Senate, not only among his colleagues but also among Senate staff who have served him and among other staff who have been fortunate to make his acquaintance, most of all my staff.

[Translation]

Many of us, I know, will miss Senator Mercier and I wish him a happy retirement. I hope he will have many pleasant memories of his former Senate colleagues.

• (1340)

Hon. Jean-Claude Rivest: Honourable senators, I, in turn, wish to pay tribute to the Honourable Léonce Mercier. I feel him getting a little more nervous as I rise. I have known Senator Mercier for over 30 years. I met him when I was very young. I worked with him in the Liberal Party of Quebec, but never in the Liberal Party of Canada. There is an old expression in Quebec to the effect that red in Quebec often means red in Ottawa. Let us just say that my political path is somewhat more rainbow-coloured than that of my friend, who has been loyal to the Liberal Party of Quebec and of Canada throughout his life, with a passion, determination and loyalty worthy of recognition.

Senator Mercier's skills as an organizer and leader have been cited. Those who have been in politics recognize that the major reforms by the politicians who controlled the destiny of Canada and Quebec, their great achievements, would not have happened — whether we are talking about Mr. Chrétien, Mr. Trudeau or Mr. Bourassa, all of whom had the solid support of Senator Mercier — had they not been able to count on the cooperation, support and help of people like Léonce, the party faithful. We tend not to notice the extent of the contribution made by the thousands of Canadians and Quebecers, who, like him, become involved in political action and give their time, talent and energy in support of their political leaders. His career and his devotion give us the opportunity to recognize the value of the contribution made by all Canadians to political action. Léonce sets a fine example.

I met Léonce during Mr. Lesage's leadership campaign. Later on, he became one of Robert Bourassa's strongest supporters in the Saguenay—Lac-Saint-Jean region. At the time of the leadership convention, Léonce had helped Mr. Bourassa win a great victory in that region. This enabled Mr. Bourassa to accede to Quebec's highest political office.

When we attended political meetings with Léonce in arenas and overheated rooms, at the end of the leader's speech — and I am sure this happened with the Liberal Party of Canada — we could hear the crowd yelling its enthusiasm and its appreciation of the leader's speech. In fact, we could hear the crowd and Léonce's voice. No crowd at a partisan meeting was ever able to bury the voice and enthusiasm of Léonce Mercier.

Mr. Bourassa, who had an innate sense for communications, preferred to deliver important speeches on the radio. He did not want to yell on the radio, because this was unpleasant and there were many listeners. He was very concerned that journalists might say that his speech was more or less well received in the room, that people had shown polite appreciation. So, we would always tell Mr. Bourassa not to worry, that Léonce was there. At the end of the speech, even if people did not find the leader really energetic, the first one to get up would be Léonce. He would applaud with the generosity and spontaneity that were his trademarks. Then the people in the room thought they had misunderstood, that the speech was probably very good and everyone would get up and express his or her satisfaction.

We all appreciated this enthusiasm, this fervour and this generosity during Léonce's too-short stay among us. Apart from all these political activities, what stands out most about him is his personality, his generosity, his respect and his great humanity towards those with whom he works. His success in the politics of the Liberal Party of Canada and the Liberal Party of Quebec is due to the trust and esteem he inspired in people. We remember his talents as an organizer, his undeniable efficiency. Success for those who become involved in politics does not stem from material things. It stems from human qualities. Those of Senator Mercier were appreciated by everyone.

As for Senator Mercier's future, after he leaves the Senate, with these qualities, this fervour and this generosity, he will be able to go on making many contributions to Canada. I could very well see Léonce Mercier occupying the position of Governor General of Canada. He would bring great energy to this position. I could not suggest it to the Prime Minister of Canada, for fear of damaging the future career prospects of my friend Léonce.

Hon. Lucie Pépin: Honourable senators, as Senator Rivest so aptly put it, Senator Léonce Mercier was the perfect embodiment at the federal and provincial levels of what is the most noble, the most honest and the most generous: the career of a political organizer.

History records and passes down the names of heads of state, generals, artists, sports figures and even infamous villains from generation to generation. However, there is one category of persons that play a major role in the operation of our democracies, and who are oft forgotten, or worse yet, the only time we see or hear of them is when the media reports that they have committed some reprehensible, or even illegal, act during an election. This profession has often acquired a pejorative connotation, as though it were some shameful disease.

Honourable senators, in case you have not yet figured out the profession to which I am referring, and which a number of you have practiced and continue to practice, I am talking about the profession of political organizer, something to which our good senator devoted much of his life.

It is important to remember that no political party can aspire to play a role in government, or even win an election without the essential and fundamental contribution of thousands of volunteers, like our dear Léonce.

Léonce was a loyal person who never kept track of his time and who was prepared to work 24 hours a day to win an election.

The Honourable Léonce Mercier spent decades in the shadow of many members of Parliament and ministers who owe a part of their success to his staunch loyalty and limitless enthusiasm. You should have seen him at work during election campaigns, encouraging the troops with his unflagging optimism, regardless of the polls; he often managed to transform into victory what at some point or other appeared to be a rather precarious situation. Admittedly, his stentorian voice, which we have all heard resonate in the Senate, gave him an advantage over more timid and reserved voices.

• (1350)

Despite his unwavering commitment to the Liberal Party, Senator Mercier has always maintained excellent relations with representatives of other political parties and, amazingly, I do not think he has any enemies. This is because everyone has recognized his complete honesty, his total lack of pretension and his limitless generosity.

Another important side of Senator Mercier is his well-known joie de vivre. Léonce is a very convivial person, considerate of everyone. He brings out the sunny side of people. Everywhere he goes, people's faces brighten. He is a grassroots politician, a naturally very outgoing person, who often managed to bring us around when we were digging in our heels!

We will miss you, Léonce, but know that there will always be a spot for you in each of our offices and remember, now that you are bilingual after learning English at the age of 73 at Bishop's University, that you are a role model for most of our colleagues in the Senate who wish to learn French and for our young people who want to make up the next generation in politics!

My dear Léonce, I will conclude by telling you how much we appreciated your unfortunately all-too-brief stint with us in the Senate. I join with all my colleagues in wishing you good health and a new career that is everything you want it to be.

Hon. Gérald-A. Beaudoin: Honourable senators, I wish to pay tribute to a colleague whom we all, without exception, hold in great esteem: Léonce Mercier. In recent years, Senator Mercier was my neighbour. We exchanged opinions, always in the best of spirits.

As has been pointed out, his voice really carries. Dynamic, enthusiastic, optimistic, Senator Mercier is really a character in his own right. A brilliant organizer, a clever strategist, he is also a great federalist; a solid federalist who contributed in his own way to the two victories of the NO side in the May 1980 and October 1995 referendums.

I have seen him at work in various associations, such as the Canada-France Inter-Parliamentary Association. He is very easy to get along with and always has a positive outlook. His career as a senator was unfortunately too short, lasting only five years, from 1996 to 2001, and he spent the last three of them as whip, no easy job. We will miss him very much, and I wish him perfect health and a very long life with his family.

Hon. Bill Rompkey: Honourable senators, what a pleasure it is for me to be here in the Senate to say thank you to Léonce Mercier.

Léonce worked generously for all senators. He could be described as a man with his heart on his sleeve and a permanent smile. Who could forget his laugh? Who could forget his warm, firm handshake? Léonce, good luck in the future! The door to the office of the Whip will always be open to you.

Hon. Pierre Claude Nolin: Honourable senators, Léonce, we are going to enlighten the majority of our colleagues on our political relationship. These five years were too short. It seems to me that we had some great projects in common, but for the benefit of our colleagues, I must say that there were also some political projects we shared. Despite what those who have listened to us may think, yes we were adversaries, but unknown adversaries. When I learned that you had been appointed, I said to myself: "I think I am going to get along with that fellow." Everyone is convinced that you and I had some great plans. For the benefit of my colleagues, they should know that I won out on two of them, and you one, but you won the main one, that is the one that brought you here.

Five years, that is too short a time! Too short because I would have liked to include you in my plans for the next 25 years. So here is my invitation. Don't wait to be called, call me and I will always be pleased to include you in my projects.

So long, and happy retirement!

Hon. Aurélien Gill: Honourable senators, there is a time for everything in life, including tributes, since we leave our mark by living. This deep imprint is important for those around us.

Léonce is indeed an impressive man. His qualities have become rare in a world where humanity has lost its primacy: old values, such as those of friendship, work, solidarity and loyalty above all. In a sense, life is one long trial in which we all have a chance to prove ourselves.

Léonce has proven himself and has shown to all who know him that life may be won rather than lost. This is an homage to life. Bitten by the politics bug, he chose to work behind the

scenes with those who ensure that things get done. This is the domain of the éminences grises.

In this often ungrateful world, where gloom can so easily prevail, he chose good humour without fail, charm and seduction. In politics, the ability to dance is a prerequisite, as are the abilities to convince and bring together, and create harmony where cacophony could otherwise reign.

In politics, it is very easy to step on toes. Léonce Mercier is a player and a witness. He is a living encyclopedia of federal and provincial politics over the past 40 years. From the quiet revolution to events of today, he was there. Age and time have brought him wisdom. It is not easy for a charmer to become a sage, but Léonce applied his talent to bringing people together, exercising persuasion and raising political courage. Had he been Abenaki or Montagnais, we would have called him "the dancer," in the best sense of the term, in the sacred sense of he who leads us in the difficult dance of life.

Léonce, thank you and good luck.

[English]

Hon. J. Michael Forrestall: Honourable senators, I have not been to university to perfect my French, although I have been learning to read it for 35 or 45 years now in these august halls.

I am reminded of a lesson I learned from a former Speaker of the House of Commons who was former Minister of Fisheries and who now serves on a distinguished advisory group to the Minister of National Defence and the Prime Minister on military matters. He was telling me about addressing the chamber. He said he turned his back, as was the wont of The Right Honourable John Diefenbaker, and said, "They, my colleagues, are our enemies. We must be always on guard."

• (1400)

"I want to tell you something, sir," I reminded the honourable gentleman, some thirty years ago now: "No, sir, I know what you are trying to say, but, believe me, they are our friends. They are our partners in Canada. It is these fellows behind you who are your enemies."

I come to my feet today because I am reminded of when Senator Mercier joined the Transport Committee, during its study on transportation safety and security. We enjoyed his counsel. I know what Senator Gill means when he says Senator Mercier is a dancer. He led us in taking seriously the issues before us, long before those issues became so popular — issues like airplane security and safety.

Thank you, Senator Mercier, for your help in those years with what was then such a dull subject, particularly in making sure that we had a full quorum. In your retirement, Senator Mercier, please relax, enjoy yourself.

I keep going to a certain restaurant in Sainte-Foy as I travel between Dartmouth and Ottawa. Frequently I have been pleasantly surprised with a glass of wine from the senator.

Hon. Vivienne Poy: Honourable senators, I rise today to bid farewell to Senator Mercier. When I first met Senator Mercier three years ago, he struck me as a very kind person despite his title of "whip" of the Senate's Liberal caucus. As someone with no experience in the political arena, that title was daunting to me. During my first year in the Senate, I struggled with my staff as they were spread out in two separate offices on different floors of the Victoria Building. My researcher had to work in a cubicle in an open office that did not afford her enough room or privacy for her work, not to mention the inconvenience of running up and down between floors when we needed to discuss issues.

Senator Mercier helped me to obtain part of the room next door, which meant knocking through a wall to enlarge my space. My staff and I owe Senator Mercier a debt of gratitude.

Each time I walk into my office, I think of you, Senator Mercier. I have no doubt that you will be offering a helping hand to others wherever you go, but we will miss you here.

Hon. Shirley Maheu: Honourable senators, Mrs. Mercier and family members, today is a very special day. Today we recognize the wonderful work of one of our own. We say a special thank you for Senator Léonce Mercier's contribution and we sadly say "au revoir."

[Translation]

Senator Mercier, if humour had not already existed you would have invented it. Your cheerfulness and dynamism brought a smile to the most sullen and austere faces on many occasions. I remember, among other things, the good time that our Canada-France friends had during their visit to Canada. They still talk about it.

All of us here have, at one time or another, benefitted from your great wisdom and your vast life experience. The summits that we have reached are evidence of your competence and experience.

Senator Mercier, your departure will leave a big void. We will miss your support, your serenity and your strength. As a favour to all your colleagues here, please keep in touch.

Senator Mercier, your going through the Senate doors for the last time must not mean the end of your years at the service of our country. My fervent wish — and I am convinced that others here will also express it — is that it will symbolize the beginning of another brilliant career very close to here, among people you know well.

So long, dear friend!

Hon. Marie-P. Poulin: Honourable senators, I want to express full agreement with the kind words and good wishes for the Honourable Léonce Mercier heard in this chamber today. I do this not only on my own behalf, but also on behalf of French Ontario. The Honourable Senator Mercier has always recognized and supported French, whether in the Eastern Townships, his own region, or in Northern Ontario. Honourable senators, we in French Ontario need champions in Quebec. We need people who

are involved, respected and admired, people like the Honourable Léonce Mercier. We need such people, such champions to talk about us as full-fledged members of the beautiful French Canadian family.

Honourable Senator Mercier, we salute your pride, your enthusiasm and your generosity. We thank you. We also salute and thank Mrs. Mercier for having lent us Léonce so often over the past five years.

Hon. Raymond C. Setlakwe: Honourable senators, Léonce Mercier and I have known each other for many years. We were both with the Liberal Party of Quebec and I remember in particular a memorable leadership campaign, that of 1978, when Léonce and I supported the candidacy of Raymond Garneau. That was our first and last defeat at a leadership convention. I dare say that, had we won, the history of Canada and Quebec would have been quite different.

• (1410)

We would have won the election that followed, and would not have had the referendum that followed that election. I will go even further. Senator Rivest might have been appointed by a Liberal Prime Minister and would today perhaps be sitting on our side of the Senate.

With our shared experience, Léonce and I then worked hard together within the federal Liberal Party and were very actively involved in the 1984 and 1990 leadership campaigns. We lost a second time, but we won in 1990, with the great result we have today.

I must admit that, in politics, even with friendships that go as far back as ours does, circumstances may arise that create personal differences. I have had mine with Léonce, and he with me. Today, however, I acknowledge my friend Léonce Mercier to be a man of great political scope, a man of great loyalty to his country and his province.

I would like to tell you, Léonce, and Madame Mercier, just how grateful we are to you.

[English]

Hon. Nicholas W. Taylor: Honourable senators, when Senator Mercier first came to this chamber, we were seatmates. I think the former whip, Senator Hébert, thought the longest serving Quebec organizer should be sitting with the longest serving Alberta organizer. After discussing ancient history for a day or two, we discovered neither of us could speak the other's language. We then made a vow that he would teach me French and I would teach him English. His Alberta version of English was coming along quite well, but then they promoted him to whip of the house so he did not get the opportunity to learn my Alberta drawl. We will work on that later.

I was not all that envious of Senator Mercier's facility with French. I was more envious of his ability on the dance floor. There is no one lighter on his feet than Senator Mercier. When he leads a conga line, God knows where it will end.

All in all, it was a great pleasure to serve with Senator Mercier. I will use my French to say:

[Translation]

Good luck, and a very happy retirement!

[English]

Hon. Wilfred P. Moore: Honourable senators, I rise to join in the tributes in recognition of the Honourable Léonce Mercier. I have known him for nearly 20 years. Over that time, I have observed him in action as a most astute political organizer, and I have had the pleasure of working with him on numerous campaigns. He was always courteous, always energetic, always loyal and always fun.

He brought those strengths to the Senate during his service to Canada in this place, and those strengths and his generous nature equipped him well to serve as a most congenial government whip.

We shared many laughs and successes over the years, and I shall miss him. I thank him for his friendship.

“Bonne chance, mon ami,” to you and your family in the years ahead.

Hon. Jeremiah S. Grafstein: Honourable senators, my dear friend Senator Mercier, I have a public *mea culpa* to make. At times, I did not make Senator Mercier's life as a whip easy. I parted with him on votes and abstentions on some contentious issues where he had a direct interest in his responsibility as whip. Yet not once did he hold this against me. At all times, I explained to him my position in advance, and he quickly understood. He even called me a gentleman, which I took as the greatest of all compliments, especially coming from my dear friend Léonce.

Honourable senators, when we are appointed to the Senate, we automatically have the word “honourable” prefixed to our name. In my mind, Léonce will always be remembered as an honourable man, a politician, and above all a gentlemen.

Léonce, I will not say goodbye; I will say “au revoir.” God grant you good health, and “bonne chance” in everything you undertake.

Hon. Anne C. Cools: Honourable senators, I join colleagues on both sides in tribute to our dear friend Senator Léonce Mercier on the occasion of his retirement from this Senate.

Senator Mercier has been here only since 1996. His time of service here was very short, but in that short time he touched many of us very deeply. Senator Mercier is many things, but first and foremost, he is a lovely fellow. He is a lovely person and a fine human being. I hold him in deep esteem.

Senator Mercier, as I look up at you in the gallery, I thank you for holding me in deep esteem. I also thank you for your very just dealings with me on every front that we have ever engaged. I thank you very much for that.

Honourable senators, I thank Senator Mercier for his service and his deep commitment to Canada. It is not known well enough how deeply committed this man was and is to Canada.

In concluding, I should like to read a short verse from the King James' version of the Book of Philippians, 4:8:

Finally, brethren, whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report; if there be any virtue, and if there be any praise, think on these things.

I want to say goodbye to Senator Mercier using those words.

In June 1984, Prime Minister Pierre Elliott Trudeau retired. At the last National Liberal Caucus with Mr. Trudeau, the then Liberal caucus dean, being the eldest person in service of the Liberal National Caucus, Senator David Kroll, was called upon and asked on behalf of caucus to say goodbye to Mr. Trudeau. Senator Kroll spoke, and he spoke beautifully. The important thing he said that day was that saying goodbye is difficult, but that the Jewish people have a beautiful word for saying goodbye. At the end of his speech, he looked up and said to Mr. Trudeau, “Shalom, Mr. Trudeau.”

• (1420)

I should like to say that to you, my dear friend and colleague Senator Léonce Mercier, Shalom. I wish you, your wife, Micheline, and your family and friends the finest and the happiest retirement possible. I also hope that you do all the things that you have always wanted to do but were not free enough or did not have sufficient time to do. Shalom!

[Translation]

Hon. Marcel Prud'homme: Honourable senators, like many of you, I have known Léonce Mercier for a long time.

When he was appointed to the Senate, he was kind enough to reveal something that I would never have dared to say. When he was secretary general of the Liberal Party, when Dalia Wood was president, there was an issue of a contract to be signed.

At the time, I was a member of the Elections Commission, and I turned toward Léonce Mercier, and I said to him: “Do not trust anyone, sign a contract.” An excellent contract was signed. As you know, honourable senators, promises are often made and are sometimes broken. So, we did not take any chances, we asked for a contract, which is how our friend became the secretary general of the party. Subsequently, thanks to the Youth Commission, which was eligible to vote, Léonce became the head organizer.

I would like to share a secret about him. Senator Mercier has the appearance of a convivial, happy person with many friends, yet he has many qualities you may not know about. He has always had a keen eye for encouraging the next generation of leaders. Thanks to his encouragement, there are four women on the municipal council in the ward in which I live, and I fully support them. I have an indirect message for the Prime Minister of Canada. There are not enough women in politics. We must reach parity in the Senate. Léonce endorsed a young woman for municipal council. I believe that she will likely be elected next week since she is our protégé and we have hopes for her becoming a member of Parliament.

Léonce the charmer has always encouraged young people, always sought them out saying, "He's a quick one, let's grab him quick," and then later, it became, "She's a quick one, let's grab her quick."

Then, because of the unfortunate era of Meech Lake a time that many people would rather forget some of those young people took a different road than we would have liked. Léonce never gave up on them. Believe it or not, almost every one of them has come back to the fold. They have come back for what we stand for, and for what he stood for. Many senators have trouble understanding this notion. Léonce is a real Canadien français du Québec. I put it this way because it cannot really be translated into English.

[English]

He is a real "Canadien français du Québec." That is what is important in the Senate: a true voice.

[Translation]

I see his good friend Michel Biron, our new senator and friend. The good humour you have enjoyed in Léonce Mercier you will find in Senator Biron as well. Make him a friend. He shares the same feelings and good nature, although in a somewhat more discreet fashion.

Léonce, thank you for all you have done for the country. You have said I did not take advantage of our friendship to get you to have me appointed to the Foreign Affairs Committee. You could have, because you know my presence on this committee is vetoed. I did not want to embarrass you by using our friendship. I am welcome on other committees. For example, in consideration of Bill C-36, I am taking part in the deliberations, although I am not a member.

Léonce, thank you. I will be less shy about going to visit you. With the important position you held, the real purpose of a visit was never clear. I will now be able to make a friendly call to talk about good times in the past. If we are lucky enough to see our mutual friend Jean Chrétien, we will call it the group of the true. Have a good rest and pay us a visit. My key is at your disposal in my quiet little space down below.

ROUTINE PROCEEDINGS

ADJOURNMENT

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Thursday, October 25, 2001, at 1:30 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

[English]

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE—
ANNUAL MEETING OF PARLIAMENTARY ASSEMBLY.
JULY 6-10, 2001—REPORT OF CANADIAN DELEGATION TABLED

Hon. Jeremiah S. Grafstein: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Canada-Europe Parliamentary Association, OSCE, to the Organization for Security and Co-operation in Europe Parliamentary Assembly Annual Session held in Paris, France, from July 6 to July 10, 2001.

[Translation]

CANADIAN NATO PARLIAMENTARY ASSOCIATION

ECONOMIC AND SECURITY COMMITTEE MEETING.
JUNE 11-15, 2001—REPORT OF CANADIAN
DELEGATION TABLED

Hon. Pierre Claude Nolin: Honourable senators, I have the honour to table the sixth report on the meeting of the committee on economy and security of the NATO parliamentary assembly, held in Washington and Boston, in the United States, from June 11 to June 15, 2001. The Canadian delegation was represented by Léon Benoît, MP.

• (1430)

MEETING OF SUBCOMMITTEE ON FUTURE
SECURITY AND DEFENCE CAPABILITIES, JUNE 25-29, 2001—
REPORT OF CANADIAN DELEGATION TABLED

Hon. Pierre Claude Nolin: Honourable senators, I have the honour to table the seventh report on the meeting of the subcommittee on the future of security and defence capabilities of the NATO parliamentary assembly, held in Germany, from June 25 to June 29, 2001. The Canadian delegation was represented by David Price, MP.

[English]

QUESTION PERIOD

NATIONAL DEFENCE

OPERATION APOLLO—ORDER IN COUNCIL PLACING TROOPS ON ACTIVE SERVICE

Hon. Michael A. Meighen: Honourable senators, my question is for the Leader of the Government in the Senate. As the minister will know, the HMCS *Halifax* has passed through the Suez Canal and is now in the Red Sea. Honourable senators will remember that the USS *Cole* was attacked by al-Qaeda in Yemen, which is adjacent to the Red Sea.

When will the government issue an Order in Council placing Canadian Forces personnel on active service for Operation Apollo? What will the area of duty or service be? What benefits can our service personnel and families expect?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for his question. I am not sure that an Order in Council is required; but I will get back to the honourable senator with that information.

Senator Meighen: Honourable senators, I thank the minister for undertaking to do that. My information, however, is that an Order in Council is required. I would be grateful if she could determine that because it has an impact on our serving personnel's pensions, life insurance and, of course, the preference that is accorded to them in public service competitions for jobs.

Senator Carstairs: Honourable senators, I undertook to take the honourable senator's first question as notice. I will do that in the fulsomeness of the question asked by Senator Meighen.

FINANCE

EFFECT OF RECENT EXPENDITURES ON BUDGET SURPLUS

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. It is regarding the surplus, which we know was shrinking dramatically even before September 11. Even the Minister of Finance concedes that the books could soon be in the red again.

We are told that neither tax cuts nor increased health spending announced last fall are in jeopardy, but that other spending will have to be cut to pay for new spending priorities. So far, beyond the \$280 million announced late last week for increased security, we have seen the outflow of \$160 million to compensate airlines for the business they lost last month, and a multi-million dollar Air Canada bailout is looming on the horizon. Canada has given Pakistan \$447 in debt relief, at an annual cost of \$16 million. We

have donated \$6 million to help the Afghan refugees. Our military contribution comes not with just a potential human cost but with a question mark beside the price tag.

Has the government begun to identify exactly what programs it is likely to scale back or which election promises it will have to break if it is to keep its books balanced?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for his question. He has put a number of figures before us this afternoon. One happens to be erroneous. I will give him the latest update on the contributions to the Afghan refugee problem. It is now not \$6 million but \$16 million because the government announced last week an additional \$10 million in aid.

There have been a number of announcements with respect to defence and security, all of which will be presented in the economic update, or the budget, which the Finance Minister will table soon.

Senator Stratton: Honourable senators, I am concerned ultimately about the fiscal position of the government as a result of such expenditures. I feel that all Canadians are becoming increasingly concerned.

The Department of Indian Affairs and Northern Development is still pumping out grants, such as the \$2 million given on September 28 to construct a native-run golf and country club. The Canadian International Development Agency has announced a new project which involves \$16 million to fight desertification in the Nile Basin. ACOA, Industry Canada, Public Works, the Economic Development Opportunity Fund and HRDC are carrying on with new commitments, announcing \$50,000 one day and \$200,000 the next. My concern is that there appears to be no slowdown in spending. Have any instructions gone out from the government to the various departments to stop spending money?

Senator Carstairs: Honourable senators, the monies that are being spent by the various departments of government were all included either in the last budget or in the economic update. They were accounted for. In the last fiscal year we know the government paid \$17.1 billion on the debt. A budget surplus was forecast for this fiscal year. I think the government has planned its fiscal future extremely well and has taken into consideration issues and provided for contingency funds for extra expenses, such as September 11 has brought upon us.

Senator Stratton: Honourable senators, can I assume from the minister's statement that all is well in the financial world of the government and that there will not be a deficit announced in the next budget? A number of people are saying that we are now in recession. Indeed, can I assume that the Minister of Finance is taking all this into consideration and, despite the economic downturn, we will be fine?

Senator Carstairs: The honourable senator can assume that when the economic statement and/or budget is provided to him, all will become clear.

[Translation]

CITIZENSHIP AND IMMIGRATION

IMMIGRATION AND REFUGEE PROTECTION BILL— POSSIBILITY OF REFERENCE TO SUPREME COURT TO DETERMINE CONFORMITY WITH CHARTER OF RIGHTS AND FREEDOMS

Hon. Pierre Claude Nolin: Honourable senators, my question is for the Leader of the government in the Senate and concerns Bill C-11. Several witnesses, and particularly the Canadian Bar Association and lawyers specializing in immigration law have questioned the constitutionality of Bill C-11 and its lack of respect for the Canadian Charter of Rights and Freedoms.

Is the government prepared to refer the matter to the Supreme Court to ensure that Bill C-11 is valid and respects the charter?

[English]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is not the intention of the government to submit a bill which has not yet passed this house or received Royal Assent. The Standing Senate Committee on Social Affairs, Science and Technology reviewed this bill very carefully. The committee heard from additional legal witnesses at the request of the opposition. The committee has reported to this chamber, indicating its wish to proceed with this bill without amendment.

[Translation]

Senator Nolin: Again with respect to Bill C-11, a number of witnesses mentioned the administrative problems of the old Immigration Appeal Board and new Immigration and Refugee Board. It would have been only natural if, as part of Bill C-11, the government had expressed its intention to reform this board, whose mandate has been broadened. The board is experiencing serious administrative problems, both because of the cases it must rule on and because of the legal questions addressed to it. Why was consideration not given to reforming the board when Bill C-11 was being drafted?

[English]

Senator Carstairs: Honourable senators, the bill deals specifically with immigration and refugee questions.

With respect to the commission, there have been additional dollars in the hope that the backlog can be cleared.

• (1440)

With respect to the overall immigration policy, Senator Roche asked me yesterday if I would be in favour of a full study on immigration policy. I indicated that if that was the will of the Senate, I would have no objections.

TREASURY BOARD

PUBLIC SERVICE COMMISSION—ANNUAL REPORT 2000-01— POSSIBILITY OF BECOMING A DEPARTMENT

Hon. Jean-Robert Gauthier: Honourable senators, my question is for the Leader of the Government in the Senate. I wish to follow up on my question of October 17, when I questioned the minister concerning the 2000-01 annual report of the Public Service Commission.

At page 58 of the report, honourable senators will recall that I read a surprising statement to the effect that the Public Service Commission spent time on the organizational renewal of the Public Service of Canada as a department. The Leader of the Government in the Senate told me that a task force was mandated to look at all statutes that govern human resources management.

I am quite aware that the task force chaired by Mr. Randal A. Quail is looking at options to restructure the Public Service of Canada. I was disturbed to hear that the task force is examining all options. I quote the minister from Hansard of October 17:

...one of the options that it is apparently prepared to review is having the Public Service Commission become a separate ministry.

Honourable senators, this matter is not of minor consequence. The answer is very important to thousands of public service people in Canada. I am not talking about Mr. Quail and his task force. The merit principle equated the elimination of patronage with efficiency in government. In other words, no more patronage inside or outside the Public Service of Canada would influence appointments. That is the purpose of the Public Service Commission. I am convinced that the Public Service Commission made a mistake in that statement from its annual report. I would ask the minister to confirm with her cabinet colleagues that there is no discussion at this time either in government or in the task force to put in place a department or a ministry of the Public Service of Canada.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I can assure the honourable senator that no minister has indicated to me a desire to see that happen. However, the task force was created to examine the legislative and structural changes necessary to ensure that Canada's public service maintains its reputation as one of the best in the world. They are not hamstringing the task force in any way, shape or form.

CUSTOMS AND REVENUE AGENCY

EQUIPPING AND TRAINING STAFF TO DEAL WITH HAZARDOUS MATERIALS

Hon. Consiglio Di Nino: Honourable senators, during committee deliberations on Bill C-11 on Monday, the Customs Excise Union expressed frustration with the current lack of proper computer equipment, lack of training, chronic understaffing and other problems, which were also clearly identified in the Auditor General's report of April 2000.

In light of the death of two postal workers in the U.S. due to anthrax, I asked the Customs Excise Union what training they received or are receiving vis-à-vis the handling of anthrax or other dangerous substances. I should like to quote their reply. The representative said:

...I believe there was a document issued last week. It was discussed over the weekend by our health and safety committee....Basically, there is some training at our college in Rigaud. It is very limited and was not specific to anthrax or to the current set of circumstances.

How can the government allow the front-line workers of our security system, those charged with protecting all Canadians, to continue to operate without proper training and/or resources during a time of serious bioterrorism threats?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the senator was also undoubtedly told in committee, additional monies have been given to customs and to immigration. Part of that amount includes money for additional training. The memo that went out last week that is now being reviewed by the union's health and safety group, which is always the custom when we deal with public servants, has that in hand. This is another example of trying to keep on top of a fast moving file as quickly as we possibly can.

Senator Di Nino: Honourable senators, it has been six weeks since September 11. The witness appeared before us on Monday, five weeks after this horrible incident. Considering the severity of this issue for people most at risk on the front line, I do not think that is a good enough answer.

Would the minister undertake to ensure that adequate resources and training are made available to all workers, particularly those on the front line who are most at risk to safeguard their health and maybe their lives?

Senator Carstairs: Honourable senators, I thank the honourable senator for his question, but it has not been six weeks since the spectre of bioterrorism became an issue. The government has responded by obtaining medication, which the other side did not quite approve. However, I can assure the honourable senator that I will take his concerns to my cabinet colleagues.

Senator Di Nino: Would the leader report to us the results of her consultation with her colleagues?

Senator Carstairs: As the honourable senator knows, I can make references to my colleagues, and they make announcements in due course.

[Translation]

BIOTERRORISM

RESPONSE OF GOVERNMENT TO REPORTS OF SPECIAL SENATE COMMITTEE ON SECURITY AND INTELLIGENCE

Hon. Pierre Claude Nolin: Honourable senators, the Senate struck a special committee to examine the issues of terrorism and

security in Canada. In fact, it was the third in a series. Its report was approved unanimously by our institution less than two years ago. This report specifically mentioned bioterrorism. Why was it necessary to wait a few weeks? I understand from your answer to Senator Di Nino that anthrax is quite a new reality. We need to get moving and spend more money. Why was nothing done when the special Senate committee tabled its report in 1999?

[English]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the monies to the various departments were announced prior to the anthrax incidents in the United States; but, having said that, the special committee that was chaired by Senator Kelly did excellent work in terms of alerting the government to the pressures and the needs, some of which have been addressed. I think that the special committee now studying the anti-terrorism bill should ask the witnesses before them what further steps the various ministries have in place.

● (1450)

FOREIGN AFFAIRS

AFGHANISTAN—REQUEST TO HALT BOMBING TO PROVIDE AID TO REFUGEES

Hon. Douglas Roche: Honourable senators, my question is to the Leader of the Government in the Senate. Yesterday, speaking here in the Senate, the Leader of the Government said this in the debate on the consequences of September 11: "We are not targeting the innocent." In light of the question to come, I want the leader to know that I accept that statement completely.

However, the unintended consequences of the bombing in Afghanistan, now in its seventeenth day, are growing out of control. The United Nations said today that 70 per cent of the population of the three large cities in that country have fled the bombing. The United Nations Children's Fund, UNICEF, has warned that the crisis is affecting the lives of millions of women and children and that 1.5 million children may not make it through the winter. Other aid officials estimate that up to 7.5 million Afghans are now threatened with starvation.

In light of the magnitude of this human crisis that is exacerbated by continued bombing, I ask the Government of Canada to now take the lead in calling a halt to the bombing so that those who are suffering so much can have aid delivered to them.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for his question. As usual it is a very thoughtful one.

It is true we are not targeting the innocent, but I would be the last one to stand here and say that the innocent will not suffer. The innocent have been suffering for decades in the country of Afghanistan. Their poverty and their inability to provide themselves with the basic necessities of life are not, quite frankly, merely as a result of the activities taking place over and sometimes in their country at the present time.

Canada has tried to take leadership on this issue. That is why we announced \$1 million long before the UN asked. We then increased it by an additional \$5 million. We increased it by a further \$10 million last week.

Canada is on the forefront in this matter. As to your specific question on whether we will take the leadership in halting the bombing, the coalition will make a decision when it is the right time to end the present hostilities. I suggest it will be after the terrorists have been caught.

Senator Roche: Honourable senators, I thank the minister and I concur with her that this is a very sensitive and delicate subject. I compliment the Government of Canada for its aid to Afghanistan, but that is really not the issue here. Sufficient aid cannot reach the people because of the continuation of the bombing and the consequent migrations.

Has the government taken note of the efforts of U.S. Secretary of State Colin Powell to get this military campaign wrapped up immediately? Has the government not thought that Colin Powell is asking for help in warding off the more recalcitrant elements in his own administration who see bombing as the only solution to get terrorists? The Government of Canada, because of its credentials, may well be able to support Secretary of State Powell and may well be able to support the United Nations and Kofi Annan in their efforts. Perhaps this is a time for Canada to stand up for its values for human life that go beyond just giving aid?

Senator Carstairs: Honourable senators, I think Colin Powell is doing a very important job but I would suggest that he is representing the administration of the United States. He is one member of that administration and he is clearly a very influential member of that administration as Secretary of State and one who, as a former military chief of staff, knows full well both sides of war, both the hitting of specific targets but also the suffering of innocent victims.

I think it is fair to say that the Honourable John Manley, Minister of Foreign Affairs, our equivalent Secretary of State, has worked closely with Colin Powell and the two are very much singing from the same hymn book.

HEALTH

PURCHASE OF ANTI-ANTHRAX DRUG—ACQUISITION PROCESS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is to the Leader of the Government in the Senate. I know some of my friends opposite have been seeking the rising stars to whom they might attach their wagons, but some of those stars have recently fallen like a rock.

Can the minister tell us how much the Minister of Health is paying per pill in Canada for the antibiotic Cipro, and how much the American government is paying for their supply of Cipro?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, to the best of my knowledge and certainly

to the best of my support, we have a Prime Minister and there is no leadership race in the Liberal Party of Canada.

In terms of price, we are paying Apotex \$1.50 per pill and we are paying the Bayer group, when and if we purchase medications, \$2 per pill. I have no idea, nor do I think I could obtain information, on what the American government is paying.

APPROVAL OF CIPRO AS ANTI-ANTHRAX MEDICATION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, yesterday my colleague Senator Kinsella called Cipro an anti-anthrax pill. I hesitate to correct him but I understand Health Canada has not approved any medication as an anti-anthrax medication. Is that correct or incorrect?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it has generally been found, according to my information, that a great many antibiotics will treat anthrax, particularly anthrax which is found on the skin, and that Cipro is just one in that family of antibiotics. Skin-related anthrax is a much less serious disease than that which is inhaled. Certainly investigations have indicated that while ampicillin and erythromycin will work well on those weaker forms of anthrax, Cipro seems to be the physicians' drug of choice with respect to inhaled anthrax.

Senator Lynch-Staunton: Honourable senators, my question is not whether Cipro is effective or not; my question is whether or not Health Canada has, after testing, officially approved Cipro to be prescribed and advertised as an anti-anthrax drug?

Senator Carstairs: Honourable senators, Cipro, like many other antibiotics, is not prescribed for a specific disease. It is within that group which is listed as antibiotics.

Senator Lynch-Staunton: Honourable senators, my question again: Has Health Canada approved Cipro, or any other drug for that matter, as an anti-anthrax medication, yes or no?

Senator Carstairs: Honourable senators, I am not sure that Health Canada ever does approve a particular drug for a specific treatment, other than to indicate the general area of help that it might provide. I will ask the Department of Health specifically what they have done with respect to anthrax.

● (1500)

NATIONAL DEFENCE

OPERATION APOLLO—PROVISION OF MEDICATION TO TROOPS ON ASSIGNMENT

Hon. J. Michael Forrestall: Honourable senators, could the minister indicate to us whether or not any treatment was placed aboard the five Canadian vessels now proceeding to the Middle East? Will there be treatments placed aboard the sixth vessel and, if so, has the treatment to go on board those vessels been approved by health authorities in this country?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I can assure you that our troops who left previously from Halifax and most recently from Victoria left fully quipped, and I would assume that that includes an up-to-date medicine chest.

[Translation]

DELAYED ANSWER TO ORAL QUESTION

The Honourable Fernand Robichaud (Deputy Leader of the government): Honourable senators, it is my pleasure to table a delayed answer to the question raised by Senator Tkachuk on September 26, 2001 on the subject of foreign affairs, changes to regulations on relations with Afghanistan.

FOREIGN AFFAIRS

CHANGES TO REGULATIONS ON RELATIONS WITH AFGHANISTAN

(Response to oral question raised in the Senate on September 26, 2001 by the Honourable David Tkachuk.)

The *Regulations Amending the United Nations Afghanistan Regulations* (the "*Afghanistan Amendments*") were published in the Canada Gazette on March 14, 2001, which is the standard way for communicating to the Canadian public the existence of new regulations. Financial institutions as a matter of practice keep abreast of changing legal developments.

The Department of Foreign Affairs and International Trade ("DFAIT") also maintains a website (at <http://www.dfait-maeci.gc.ca/trade/sanctions-e.asp>) which sets out all of Canada's economic sanctions, including links to the specific text of those regulations. The *Afghanistan Amendments* were posted on that website. Financial institutions regularly consult with DFAIT regarding sanctions regulations which have financial impacts. Those sanctions include the original *United Nations Afghanistan Regulations*, the *Afghanistan Amendments*, the *United Nations Angola Regulations*, the *United Nations Iraq Regulations*, and the *United Nations International Criminal Tribunal for Yugoslavia Regulations*.

Other governmental departments have also played a role in the dissemination of this information. For example, the Department of Industry maintains a website which lists various regulations affecting Canadian businesses, which also includes a reference to the sanctions against Afghanistan. The Privy Council Office lists all Orders in Council on its website, and links to an electronic version of the Canada Gazette. As with most criminal offences, any violation of the *Afghanistan Amendments*, would be investigated by the Royal Canadian Mounted Police if information came to its attention suggesting that there was a violation.

The *Afghanistan Amendments* did not require financial institutions to confirm that they were complying with the

regulations. This was in keeping with the then practice for sanctions which limited itself to the freezing of funds (other examples are set forth above). Recently, on September 28, 2001, the United Nations Security Council passed Resolution 1373 (2001) which provided a broad mandate for the fight against terrorism. In response to that broader mandate the *United Nations Suppression of Terrorism Regulations* were made which provide that all Canadians must report information on any frozen assets in their possession.

[English]

ORDERS OF THE DAY

IMMIGRATION AND REFUGEE PROTECTION BILL

THIRD READING—DEBATE ADJOURNED

Hon. Jane Cordy moved the third reading of Bill C-11, respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger.

She said: Honourable senators, it is a great pleasure to be opening the debate on third reading of Bill C-11, the Immigration and Refugee Protection Bill. It has been a long and at times bumpy road to get to this place, but it was a road worth travelling.

Honourable senators, I thank all my colleagues who participated in the committee process and took the time to listen to over 50 witnesses and the constitutional panel that gave its opinions on Bill C-11. It was a long process, but it insured that this very important piece of legislation received a thorough examination.

When Bill C-11 was introduced, the minister stressed the need for balance. The government wants to strengthen our immigration and refugee protection programs while at the same time continuing Canada's commitment to protect refugees, strengthening family reunification and supporting immigration of the skilled workers Canada needs to grow and prosper in the future. As well, Bill C-11 will assist our national authorities to stop those who would abuse Canada's generosity. People who wish to come to Canada with criminal intent will have to go elsewhere.

Honourable senators, Bill C-11 respects our obligations to extend protection to those in genuine need, both in Canada and abroad. These obligations are found in the 1951 Geneva Convention, but most importantly, in our own Charter, a document that is the very embodiment of the humanitarian values Canadians hold dear. The bill also provides the government with the necessary tools to make refugee determinations quickly. This streamlined process consolidates decision-making at the Immigration and Refugee Board, which has become a model to countries around the world.

It is with Canadian traditions and values and new global challenges and threats in mind that the government has sought to introduce a balanced package of immigration reforms, a package which maximizes opportunities for social integration and economic growth on the one hand while ensuring public confidence in the system on the other.

Honourable senators, Bill C-11 is the result of extensive consultations with Canadians, stakeholders and representatives over the last five years, including, I might add, significant amendments made by the House of Commons Standing Committee on Citizenship and Immigration last spring.

Like the current Immigration Act, Bill C-11 is framework legislation. It contains the provisions affecting fundamental rights and the important core principles that govern Canada's immigration and refugee protection programs. While we recognize that specifying procedures and practices in regulation will allow the government to quickly and proactively respond to changes in a fast-paced and increasingly complex world, we have also heard concerns about the framework structures of the bill. It is pleasing to see, therefore, that the legislation was amended to require the minister to table these regulations before each House of Parliament. Each house will be able to refer them to the appropriate committees for consideration.

The events of September 11 have had a profound impact on all of us — in the United States, around the world, and in Canada. It is clear that we need to take the necessary steps to protect public security. The government recognizes that while the immigration department has a role to play in this regard, terrorism is an international problem requiring coordinated work between departments and between nations. As the minister has said, the most effective strategy against terrorism is to stop terrorists before they reach our borders, but if they should reach our borders, Bill C-11 gives the government the right variety of tools to deal quickly and firmly with them. International and unpredictable threats to public health and safety are and will continue to be taken seriously. Bill C-11 gives us the modern system we need to deal with changing circumstances and with the global movement of people.

Concerns have been raised about the way in which Bill C-36, the government's new anti-terrorism legislation, will impact on Bill C-11. In particular, we have heard questions pertaining to the proposed definition of "terrorism." My colleagues on the Standing Committee on Social Affairs, Science and Technology commented in our observations that working definitions do exist and that the United Nations Convention on the Suppression of Financing of Terrorism may be a good place to start. Bill C-11 provides authority to include such definitions by regulation. In our observations, the committee urged that a definition of terrorism should be considered in the regulations to accompany Bill C-11.

Also raised at our committee was the question of clause 64, the provision that removes the right to appeal for serious criminals

and those who pose a threat to Canada. The government's position is that it will not go beyond our Charter obligations in providing due process to those convicted in Canada of serious crimes. Bill C-11 streamlines the process for removing serious criminals who are not Canadian citizens from Canada as quickly as possible, while maintaining the discretion for immigration officers to take individual circumstances into account.

One of the main issues the Senate committee heard about in its review of this bill was the issue of resources. The minister has recently made some important announcements in that regard.

• (1510)

To help strengthen resources at Canada's borders, the government has just announced that it will invest approximately \$49 million to strengthen Citizenship and Immigration's enforcement initiatives. This new money will go toward fast-tracking the new permanent resident card for new immigrants by June 2002, the implementation of front-end security screening of refugee claimants, increased capacity for detention and deportation activities and the hiring of up to 100 new staff to enforce security at our ports of entry.

Some witnesses and senators have said that Bill C-11 offers us no new tools for enforcement activities. This is not correct. Bill C-11 provides important new legislative tools that will further strengthen our ability to ensure public safety and to prevent abuse of our immigration and refugee protection programs. These include: the ability to pull someone out of the refugee determination process if security concerns arise later on in the process; stronger authority to arrest and to detain criminals, people who pose security concerns and those whose identity is in doubt; and broader grounds for denying entry to Canada for reasons of fraud, misrepresentation or involvement with organized crime.

I think the minister is quite right when she says that this bill is measured and balanced and takes into account that Canada has objectives that exist alongside the need to combat international terrorism. There is a global competition to attract persons with skills and talent. Bill C-11 and its accompanying regulations will provide the government with the tools to position Canada to take advantage of this global movement of people.

Proposed regulations for the selection of skilled workers as permanent residents will allow Canada to choose those who have flexible and transferable skills rather than focusing on those in a particular occupation. Bill C-11 continues to emphasize family reunification as a cornerstone of Canada's immigration policy.

While Bill C-11 deals firmly with those who pose a threat to national security, it also reaffirms Canada's tradition of openness to receive legitimate immigrants and refugees who have so much to offer to our country. Now, more than ever, Canadians need the reassurances, efficiencies and protection afforded in this new legislation.

Honourable senators, Canada is a nation built on immigration. Our country has a long history of opening its arms to immigrants and refugees who come to Canada looking to make a new life for themselves and their families. It is our openness that makes Canada the great multicultural society that it is today.

Hon. Consiglio Di Nino: Honourable senators, I wonder if Senator Cordy would take some questions?

If I may, I should like first to congratulate the leadership on the government side for resisting the pressure from the minister to rush this bill through. We were allotted three days to look at the bill and have some consultation, although I think we could have used more time. I want to thank them for that courtesy and recognize the fact that it is a small victory for the Senate.

Senator Cordy made some interesting comments, particularly about the number of witnesses the committee heard. However, she did not say that everyone who appeared before us, with the exception of the officials, condemned this bill or disagreed with this bill in one form or another. I should like to deal with some of the questions and issues that she raised in her comments.

First is the issue of regulations. The minister, through the sponsor of the bill, Senator Cordy, wants us to take the content of the bill on its face value. However, most of the real meat will be through regulation. My concern, and the question I have for my colleague Senator Cordy, is how do we know what will be in this bill until such time as we see the regulations?

Senator Cordy: Honourable senators, the regulations are being developed as we speak, but it would be unusual for regulations to appear before us prior to the bill being passed by the Senate.

Senator Di Nino: The Canadian Bar Association and many others have said that this goes way beyond the normal practice of regulation, that this is extensive rather than normal.

Honourable senators, Senator Cordy also commented that the regulations would be laid before both Houses for referral to the appropriate committees. Again, Senator Cordy omitted two things. First, we will have no input and will just have to accept what the regulations say. Second, one of the provisions of the bill states that if regulations are amended or changed at a later time, there is no obligation on the part of the government to present these regulations to us for review and, I would hope, for approval. Do I understand this correctly? Does the honourable senator agree?

Senator Cordy: Honourable senators, framework legislation is not a new phenomenon with this bill. In fact, the current bill is framework legislation. Fortunately, there was amendment in the House of Commons that the regulations would be brought before both Houses. The minister has agreed to meet again with the committee to provide an update on the implementation of Bill C-11. In addition, we will talk about the implementation of the regulations.

Senator Di Nino: Honourable senators, would my colleague not agree that it would be fairer, if there were changes to the regulations, to have an opportunity to view them before they are implemented? We should be asking the minister to do that rather than come here and tell us to live with the regulations.

Senator Cordy: Honourable senators, because of the amendment in the House of Commons, the regulations will go before our committee for review. If we have recommendations to make to the minister, we can do so.

Senator Di Nino: Honourable senators, I have more questions, but I know my colleagues wish to speak. I should like to return to the debate at an appropriate time.

Hon. Pierre Claude Nolin: Honourable senators, my question will focus on the commission, clause 151. I have not gone through the entire report because it is quite lengthy. I understand there are many concerns highlighted in that report.

Has the honourable senator examined how the commissioners are appointed and the control of the quality of the commissioners who will be appointed to take care of the workload of the commission?

Senator Cordy: The committee has talked about the importance of all staff within immigration being competent and well trained. That question came up earlier today during Question Period.

Senator Nolin: I understand that it came up during Question Period, but I want the precise answer from Senator Cordy. The minister was not privy to the discussion in front of the committee.

First, the mandate of the commission will be augmented; do we agree to that? Yes. Therefore, we will need new commissioners. Has the honourable senator questioned the witnesses on the type of commissioners needed to ensure that the commission will operate properly and not with a backlog of 34,000 cases?

• (1520)

Senator Cordy: Honourable senators, I cannot give specific references that witnesses made before our committee, but we did talk about resources. The minister has told us that a fairly substantial amount of additional funding will be provided to the department to hire people, which was mentioned earlier. It is a concern of all honourable senators that the people be well trained.

Senator Nolin: Let us assume that they are well trained. Perhaps the honourable senator has asked that question of the officials or of the various witnesses that the committee has heard. Is she able to confirm that the commission will perform a quasi-judicial function?

Senator Cordy: I am not sure of the answer to that question.

Senator Nolin: The answer is "yes."

Now that we are agreed on the answer, is the honourable senator satisfied that because the commission is to perform a quasi-judicial power, the people who have rights arbitrated by that commission also have rights under the Charter? We all agree to that, I am sure, and I am certain Senator Cordy was informed of that during the course of the committee's examination. Was the committee concerned by the level of independence of the commission?

Senator Cordy: There was some discussion that the commissioners be at arm's length from the minister. I cannot recall exact conversations that took place, but I will review the proceedings and obtain that information for Senator Nolin. I cannot recall specific submissions that witnesses provided to us.

Senator Nolin: Honourable senators, I wish to ensure that the courts and the judiciary are totally independent of the executive because this is not a tribunal protected by a variety of processes and procedures. We have entered a grey area and that is why I ask these questions. It is actually a quasi-tribunal. The commissioners will make decisions, issue rights, confirm rights and decline rights to people who have rights.

These commissioners do not constitute a tribunal. Will they be independent when they perform their tribunal or quasi-judicial function?

It is not up to me to check the record. We must be informed and convinced that, yes, they will be in total freedom to make their decisions independently under the authority given to them in Bill C-11.

Senator Cordy: Honourable senators, it is my understanding that these commissioners will be at arm's length of the minister.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I listened to Senator Cordy's fine presentation in which she made reference to Bill C-36. It is around that bill that I would ask for clarification.

Could Senator Cordy review that part of her presentation? What is the relationship of Bill C-36 to Bill C-11? For example, this morning in the special committee on anti-terrorism, we heard testimony from one witness who recommended that the definition of "terrorist activities," which is the only definition provided in Bill C-36, should be included in Bill C-11. If I listened accurately to the senator's presentation, she spoke of the definition of "terrorism." Could she clarify that for us?

Senator Cordy: Honourable senators, we had a fairly lengthy discussion at the committee level in terms of determining a definition for "terrorism."

My understanding is that Bill C-36 has a definition of "terrorist act," and this definition would be provided for in the regulations. It was the opinion of the committee that a definition be placed in the regulations. In fact, in the observations attached to the report from our committee, the committee believes that a definition should be placed in the regulations.

Hon. Douglas Roche: Honourable senators, although I do not like the way the government has pushed Bill C-11 through the Senate, I wish to compliment Senator Cordy for the manner in

which she exercised her responsibilities in shepherding the bill through the process.

That brings me to the observations that Senator Cordy just mentioned are attached to the report on Bill C-11 that has come back to the Senate for third reading. What is the responsibility of Senator Cordy with respect to carrying forward the observations?

Perhaps the Leader of the Government in the Senate could be of help in this domain. Is it the responsibility of the senator who carries the bill through? Do those responsibilities terminate when the bill is given third reading? If so, who then takes the responsibility for ensuring that the observations, which are some 13 pages in length and contain many detailed points that the committee wanted to impress upon the government, will be afforded serious treatment by the government such that those carefully crafted observations, in lieu of amendments, will not drift off into the mist never to be heard of again?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, with your permission, I shall respond to the honourable senator's question.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Carstairs: Honourable senators, I have the responsibility to take the report forward, as I have taken forward other committee reports of this chamber.

The Hon. the Speaker: Honourable senators, in an effort to comply with the rules, the Honourable Senator Roche has the floor.

Senator Roche: Honourable senators, I thank the Leader of the Government in the Senate for clarifying that matter. I understand that the questions we have concerning the observations will be directed to her in due course.

Does Senator Cordy recall the testimony given by the Minister of Citizenship and Immigration for the Government of Ontario that extensive consultation was not given and that the Government of Ontario was not consulted? That point was made in the context of Ontario being the largest recipient by far, with some 60 per cent of all immigrants to Canada coming to Ontario. If the immigration and refugee process is to be successful, Ontario is the place where they are made to work. If the government did not consult with Ontario on the way into this bill, in what manner can we be assured that the implementation of this bill will carry with it a consultation process with Ontario?

Senator Cordy: Honourable senators, when the minister spoke before us, she spoke to the fact that there were five years of consultation. We can only believe that the witness who appeared before us unfortunately was not one of the people consulted. Having said that, five years of consultation took place.

• (1530)

Lawyers, I believe from Ontario, appeared before us and told us that they had been consulted. It was unfortunate that this gentleman was not part of the process. Having said that, there were five years of consultations before this bill came to be.

Hon. Marjory LeBreton: Honourable senators, with respect to the consultation process, it is a sad state when one of the persons not consulted was the Minister of Immigration for the Province of Ontario.

Another person who was not consulted, but freely offered his advice, as shown by the testimony before the committee, was the former Deputy Minister of Citizenship and Immigration, who tried to offer his advice not only to the present minister, but the previous minister and the Prime Minister, and did not receive a reply from anyone.

Honourable senators, I have a question for Senator Cordy. I was listening to her remarks, and, of course, I will acknowledge that both of us sat through many long hours of listening to compelling testimony. In her remarks today, she characterized Bill C-11 as a bill that would — and I did not copy her words exactly — stop those who abuse our generosity. I think those were her words. Then the honourable senator went on to say that within recent days the minister had earmarked \$49 million for enforcement initiatives. As I was listening to her, I was wondering — and perhaps it is something she as the sponsor of this bill should ask the minister — whether this effort to stop those who abuse our generosity also applies to the some 4,000 individuals who were granted ministerial permits by this minister, overriding the decisions of the officials of the Immigration Department?

Senator Cordy: Honourable senators, I agree that this bill strikes a good balance. In the terms the minister used, we open the front while we close the back door. It is important for honourable senators to realize that most of the people who come into this country, whether as refugee claimants or as immigrants, come for the right reasons. They want nothing more than to be part of this great country. Unfortunately, there are the few people who make the headlines of newspapers because they are abusing the system. They do a disservice to all of the good people who have come here in the same way our ancestors came here.

Senator LeBreton: Honourable senators, my question was this, if I can be very clear: Does this bill put any restrictions on a minister from granting 4,000 ministerial permits? The minister can decide to override the decision of the department, and it is the minister and the minister alone who can decide whether these people are worthy of having citizenship in our country.

Senator Cordy: Honourable senators, the minister should be able to have discretionary power. In this case, the minister has allowed some people to stay in our country.

Senator LeBreton: Honourable senators, we had one witness testify that some ministers in the past exercised this authority judiciously, and there has been a great many more permits under some ministers. Whether we get into a numbers game or not, I am just wondering if the honourable senator could get this answer from the minister since she is the sponsor from the government side, as to whether there is some control over ministerial permits that override decisions already made by officials.

Senator Cordy: I will endeavour to get that information.

Senator Nolin: Honourable senators, my question arises from an answer the honourable senator gave to Senator Kinsella.

If we look at the report at page 871 of yesterday's Journals, the second-last paragraph concerns the definition of terrorism, and it refers to Bill C-36. To make sure that everyone understands my question, it reads, "The Committee recognizes the importance of defining the term terrorism." We all agree with that and support the idea of including such a definition in legislation or in regulation.

Why has the government decided on regulation instead of legislation? The rest of the paragraph mentions the importance of having the same definition in all legislation. Why have you not decided to amend Bill C-11, to use the same wording used in proposed Bill C-36, which uses the words "terrorism activity" instead of pure, simple "terrorism"? Why have you decided on regulation, and, second, why have you not decided to amend Bill C-11 to at least do what you are recommending, to have the same definition in all legislation?

Senator Cordy: We had a discussion at the committee level about whether we would have a definition of the term "terrorism." We are saying we would like to have the definition of terrorism in the regulations. If, in fact, Bill C-36 comes up with a definition of terrorism, possibly, that is the definition that would be used. We cannot pass Bill C-11 and say perhaps it will be a definition based on another bill that is still before the House of Commons. It is our intent, by red flagging this point, that the department and minister look at putting a definition in the regulations.

Senator Di Nino: Just for clarification, and you can read it as well as I, honourable senators, that observation does not say that we have agreed as a committee to put the definition of "terrorism" in the regulation. We are saying it should be in legislation, but failing that, it may have to be considered being in regulation, just for clarification.

I have one question with respect to one of the greatest concerns we had on both sides of the committee. The minister was quite forceful in her demands that this bill be passed immediately because it was necessary to do all the things she pronounced publicly. It was a big surprise, during the first day of hearings, when we found out that this bill will not see the light of day until probably next summer, principally because the regulations have not yet been written. As we speak, they have not been written. Can Senator Cordy give us a date as to when to expect those regulations to be laid before the Senate?

Senator Cordy: Honourable senators, the minister has clearly stated on a number of occasions that the development of the regulations is being done as we speak. As I said earlier, it would be highly unusual to have the regulations appear before us before the bill is passed. No one would be happy to see that.

The department has already begun drafting the regulations, and they will be ready as soon as possible after Bill C-11 passes. Again, I want to congratulate the minister on her proposal to bring the regulations before the Senate and the House of Commons committees, and I am sure they will go through a thorough public debate there.

• (1540)

As I said earlier, the minister has agreed to appear before the committee to update us on the regulations.

Senator Di Nino: I thank the honourable senator for carrying out a tough task and for her honesty in answering.

On motion of Senator Di Nino, debate adjourned.

[Translation]

BUSINESS OF THE SENATE

The Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I move that the Senate do now adjourn and that all items on the Order Paper that have not been reached stand in their place.

The Senate adjourned until Thursday, October 25, 2001, at 1:30 p.m.

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THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Thursday, October 25, 2001

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

THE LATE HONOURABLE JAMES GLADSTONE

UNVEILING OF BUST IN SENATE FOYER

The Hon. the Speaker: Honourable senators, before proceeding to Senators' Statements, I wish to draw your attention to the presence in our gallery of some very special guests. They are the family and friends of our former colleague the late Senator James Gladstone, who was remembered today at a commemoration ceremony and unveiling of a bust in the Senate foyer. The bust will remain in the Senate precinct as a reminder of his important contributions.

The Honourable Senator Gladstone was the first Aboriginal to sit in the Senate and his contribution to his people and to Canadian politics was as significant as it was unprecedented. Through his zeal and conviction, through his gentle persuasion, he built bridges reaching across the cultural divide between native and non-native people and securing the rightful place of native issues to the centre stage of national politics.

[Translation]

All Canadians owe a debt to James Gladstone. Thanks to him, our country evolved, became more tolerant, free and enlightened. He has left a heritage to all Canadians and his memory is a great source of pride and inspiration to us all.

[English]

To the friends and family of Senator James Gladstone, welcome to our chamber.

Hon. Senators: Hear, hear!

SENATORS' STATEMENTS

MOVEMENT FOR CANADIAN LITERACY AND LA FÉDÉRATION CANADIENNE POUR L'ALPHABÉTISATION EN FRANÇAIS ACTION DAY

Hon. Joyce Fairbairn: Honourable senators, today some 80 people from across the country are visiting offices all over Parliament Hill. They are here with the Movement for Canadian Literacy and la Fédération canadienne pour l'alphabétisation en français, which are holding their annual Literacy Action Day. They are meeting 80 to 100 members of the House of Commons and the Senate, for which I thank everyone. They are bringing a message from the grassroots of this nation that over 40 per cent of Canada's adult citizens have difficulty, every day of their

lives, reading, writing and communicating the routine things that everyone in this chamber takes for granted. Literacy is the foundation of everything we do in this country in terms of being able to prosper and to take advantage of the opportunities that are before us in the 21st century. I thank everyone who has taken an interest, and I urge all honourable senators to join this army of volunteers across the country to help make Canadians understand this issue.

Honourable senators, as a final word, we honoured today a hero of the Senate, the late Honourable Senator James Gladstone. One of the messages that he brought to this chamber in his maiden speech was, in his words, "Education is at the foundation of everything we do."

The legacy that Senator Gladstone leaves makes it possible for people across this nation to learn, to become educated, and to join with vigour and affection in what they believe to be a very beautiful nation.

I salute Senator Gladstone, who represented the southwestern Alberta region and whom I had the privilege of following into this chamber. He was an extraordinary symbol for his people. He believed, as do many honourable senators, that life-long learning is what makes Canada work.

THE RIGHT HONOURABLE JOHN DIEFENBAKER

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I was very pleased to attend the ceremony this morning honouring our late colleague Senator Gladstone.

I hope that I can be allowed to pay tribute at the same time to the gentleman who named Senator Gladstone to the Senate, the late Right Honourable John Diefenbaker. John Diefenbaker was one of the most controversial Canadian politicians the last century saw. However, he had some basic values that continue to inspire Canadians. One of those values was his belief in the equality of all in this nation. John Diefenbaker not only named James Gladstone to this place, but also gave native people the right to vote. He is the one who brought in the Bill of Rights. These are extraordinary testimonials and tributes to the man. I should like to think this morning's event was also in memory of a great and distinguished prime minister, John Diefenbaker.

MILITARY ACTION IN AFGHANISTAN

EFFECT ON PROVISION OF AID

Hon. Lois M. Wilson: Honourable senators, I wish to comment briefly on the current military action in Afghanistan. The bombing has not yet delivered Osama bin Laden, as was promised in its goal. Indeed, continuous bombing has obliterated innocent civilians, exacerbated the flow of refugees wanting to escape the horror and in the short term escalated the humanitarian crisis.

The airdrops of food make great TV, according to the chief executive of CARE International, but they often represent a failure to respond to a food crisis effectively.

International law obliges those who take armed action to ensure that civilians have access to humanitarian aid. Cannot aid be channelled by the United Nations through clear land corridors, to ensure safer passage?

The trucking of food is cheaper and is tried and tested, according to Oxfam, whereas air drops are risky, random, expensive and likely to meet only a fraction of the need. Increasing numbers of people are deeply sceptical about the continuation of this campaign and the havoc it is creating among civilians. Much more attention needs to be paid to the diplomatic and humanitarian fronts in terms of creating a robust and multilateral survival and reconstruction program for the innocent civilians of that troubled world.

PRINCE EDWARD ISLAND

TENTH CANADIAN SCOUT JAMBOREE

Hon. Elizabeth Hubley: Honourable senators, for 10 exciting days in July of this year, Prince Edward Island's population increased by about 10 per cent as more than 14,000 Scouts, Venturers, Leaders and volunteers gathered at Cabot Provincial Park for the Tenth Canadian Scout Jamboree. Many arrived by air, others by train and bus. One group of 35 Scouts even came to the Island from Nova Scotia on a lobster boat.

Although primarily a Canadian jamboree, with youth participating from every province and territory, Scouts from around the world were also in attendance. There was a large contingent from the United States as well as Scouts from Australia, New Zealand and Jamaica.

Prince Edward Island is always an interesting place during the summertime, with tens of thousands of tourists visiting our province every year. The Scout Jamboree represented something very special, bringing together as it did so many youth in a celebration of friendship and community.

The Scouts had fun kayaking in the ocean, taking part in other outdoor adventures, trading badges, discovering the Island's many historical and cultural attractions, and sharing music and stories around the proverbial campfire.

The jamboree also had special distinguished visitors, including Premier Pat Binns, Canadian Astronaut Marc Garneau, as well as Governor General Adrienne Clarkson, who officially closed the event in her role as Chief Scout.

Honourable senators, how often do we proclaim that our youth are the leaders of tomorrow and that our children are our future? I believe the world is a better place when young men and women come together as they did this summer in Prince Edward Island.

I should like to congratulate all those involved, especially the Chairperson of the Jamboree Planning Committee, Mr. Lorne Moase; the National Scout Commissioner and Camp Chief,

Mr. Sam Ellsworth; and Robert and Joyce Bryanton, on whose family farm this grand event took place.

[Translation]

CANADIAN BROADCASTING CORPORATION

NATIONAL FRANCOPHONE NETWORK

Hon. Jean-Robert Gauthier: Honourable senators, yesterday the CEO of Radio-Canada/CBC announced that the corporation had filed 18 applications with the CRTC for licences to expand and accelerate the extension of la Chaîne culturelle to all Canadian provinces by 2002.

This initiative will make it possible to satisfy the needs expressed on so many occasions by French-language communities throughout the country as yet unable to access this cultural programming.

Radio-Canada is thus accelerating the implementation of commitments made to the CRTC at the time its licences were renewed in January 2000. What is more, these applications reflect the council's recommendations in February 2001, after broad public consultations across the country on French-language broadcasting services to minority communities.

Honourable senators will recall that this matter has been often raised here in this chamber. I brought forward a motion — Motion No. 65 — calling upon the Standing Committee on Transport and Communications to examine and report upon the measures that should be taken to encourage and facilitate provision of and access to the widest possible range of French-language broadcasting services in francophone minority communities across Canada. This is a step in the right direction.

I am pleased with this good news and take this opportunity to congratulate Radio-Canada on it. According to their press release:

If the project filed by Radio-Canada obtains CRTC approval, la Chaîne culturelle would be available in all Canadian provinces before the end of 2002. It would then service over 90 percent of the country's francophones, as well as other Canadians with an interest in the francophone culture.

My congratulations to the corporation on this initiative.

[English]

LITERACY ISSUES

Hon. Ethel Cochrane: Honourable senators, according to the international adult literacy survey, "Literacy Skills for the Knowledge Society," about 22 per cent of adult Canadians fall into the lowest level of literacy category. A further 26 per cent are at level 2, which means that they can read, but can only handle simple text that is clearly laid out and in a familiar context.

As a former teacher, I know we have made great strides through education and literacy programs over the years. I am inspired by the dedication and vigour with which people such as Senator Fairbairn promote literacy issues. Their efforts are recognized and appreciated but, clearly, as the statistics reveal, much more needs to be done, and I am sure that the honourable senator will agree.

According to a recent report by the Canadian Council on Social Development, compared to other countries Canada has the third largest proportion of youth with poor literacy skills, at a level of 10 per cent. We are well aware of the link between low literacy and a number of social and economic problems, including unemployment, poverty and crime. Various provincial studies have also shown that low literacy increases safety risks in the workplace, the community and at home. Low literacy levels also reduce the efficiency of our country by limiting opportunities, blocking access to resources and burdening our services such as the health care system.

• (1350)

It is well documented that individuals with lower literacy rates have poorer health, are often unaware of appropriate health services, and make more visits to health care providers and hospital admission rooms.

In fact, the health problems are even more basic than that. When the Ontario Public Health Association and Frontier College conducted a study back in 1990, they found that there was a significant level of failure to comply with medical directions and administering infant formula. Their data revealed that nearly half of respondents had incorrectly used over-the-counter and prescription medications as a result of literacy problems. This should not surprise us. The reality for the 22 per cent of adult Canadians who have low-level literacy skills is that they simply are unable to look at a medicine label and determine the correct amount of medicine to give to a child.

The last Speech from the Throne made a commitment to work with stakeholders to develop a national literacy initiative. This is crucial. Today, being Literacy Action Day on Parliament Hill, we must vow to put literacy on the political agenda and make literacy a national priority.

THIRTIETH ANNIVERSARY OF MULTICULTURALISM ACT

Hon. Sheila Finestone: Honourable senators, this month Canada proudly celebrates the 30th anniversary of the Multiculturalism Act. Entitled "Multiculturalism within a Bilingual Framework," this legislative milestone was announced by former Prime Minister Trudeau to respond to our multi-faceted and interconnected Canadian society.

Let us ask ourselves: What is the true meaning of Canadian multiculturalism? I believe the answer can be found in these three major points.

First, we need to bear in mind that the policy was established to harmonize ethnic and linguistic elements existing in our society and create equality among all groups.

Second, the liberalization of Canada's immigration policy in the 1960s opened the opportunity for recognition of multiculturalism in Canada. The Immigration Act of 1967 established a new immigration system and brought to fruition a blending of race, national origin, religion and culture, constituting the very fabric of our society. Third, multiculturalism was also conceived as the national symbol fulfilling the aspirations of a distinctive Canadian identity. By adopting multiculturalism as integral to our collective identity, a distinctive Canadian identity was then established.

In other words, founded on a long tradition of human rights legislation, the Multiculturalism Act values and respects Canada's rich and diverse heritage, including our Aboriginal people, French and English, while at the same time recognizing diversity as a fundamental characteristic of Canadian society.

In 1971, Canada became the first country in the world to adopt a multiculturalism policy. We stand proudly behind it to this day. Our 30-year anniversary celebration demonstrates our accomplishments in many ways. We have achieved equity in the economic, social, political and cultural life of our country. We have actively developed a more inclusive society based on the respect of full citizens' participation. We have shown that Canadian cultural pluralism has preserved and enhanced ancestral, ethnic and cultural traditions within the larger vision of a true Canadian society.

Canadian multiculturalism remains consistent with the well-founded concept that ethnic identities, traditions and practices are incorporated in the mainstream Canadian culture by replacing traditional, historic immigrant assimilation with active and functional social integration.

Honourable senators, in modern liberalism our citizens are not abstract individuals but remain as social beings. What is important for the government is to provide the social conditions under which its people can choose their essential good. We must always remain cognizant that justice is the primary value of a political society and that beyond the moral and philosophical idea, justice must be applicable to the societal realm.

The Multiculturalism Act, as a true expression of political and social justice, has successfully replaced discriminatory practices with equal status relationships in an inclusivist public domain.

The Hon. the Speaker: Senator Finestone, I am sorry, but your allotted time has expired, as has the time for Senators' Statements.

ROUTINE PROCEEDINGS

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 2001

REPORT OF COMMITTEE

Hon. E. Leo Kolber, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, October 25, 2001

The Standing Senate Committee on Banking Trade and Commerce has the honour to present its

TENTH REPORT

Your Committee, to which was referred Bill S-31, An Act to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income has, in obedience to the Order of Reference of Wednesday, October 17, 2001, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LEO KOLBER
Chairman

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Robichaud, bill placed on Orders of the Day for consideration at the next sitting of the Senate.

CONSTITUTION AMENDMENT, 2001, NEWFOUNDLAND AND LABRADOR

NOTICE OF MOTION

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I give notice that on Tuesday, October 30, 2001, I will move the following motion:

WHEREAS section 43 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

NOW THEREFORE the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by her Excellency the

Governor General under the Great Seal of Canada in accordance with the schedule hereto.

(For text of Schedule, see Order Paper, October 30, 2001, p. 4.)

INTER-PARLIAMENTARY UNION

ONE HUNDRED FIFTH INTER-PARLIAMENTARY CONFERENCE— REPORT OF CANADIAN DELEGATION TABLED

Hon. Sheila Finestone: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian group of the Inter-Parliamentary Union that represented Canada at the one-hundred fifth inter-parliamentary conference held in Havana, Cuba, from March 28 to April 7, 2001.

• (1400)

QUESTION PERIOD

HEALTH

PURCHASE OF ANTI-ANTHRAX DRUG—ACQUISITION PROCESS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, to the Leader of the Government in the Senate, is the government proposing to make Tommy Thompson, Health and Human Services Secretary in the United States, an honorary Canadian citizen given that he has been able to negotiate the price of 95 cents per Cipro pill? As a result of that negotiation, our falling star in the health department has been able to have his officials get a price of not \$2.50, which Mr. Rock had originally negotiated, but something approximating the 95 cents per pill that Mr. Thompson was able to negotiate.

Hon. Sharon Carstairs (Leader of the Government): I can tell the honourable senator that honorary citizenship will not be granted, but it certainly proves once and for all that if one makes a bulk purchase, one frequently gets a better price. Since the Americans ordered 100 million pills, I think that is the reason they got the better deal, and we also were able to back in on that deal.

APPROVAL OF CIPRO AS ANTI-ANTHRAX MEDICATION

Hon. David Tkachuk: Honourable senators, there is no doubt that Apotex made some bulk donations to the Liberal Party of Canada. We could talk about that. I do not know if I have the time to read all the donations, so I will do that later.

Has Cipro been approved by the Department of Health for the treatment of anthrax in Canada?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, that question was asked yesterday by the Honourable Leader of the Opposition in the Senate, and I will get the information for him as quickly as I possibly can.

Senator Tkachuk: Honourable senators, has the Department of Health in Canada approved the generic drug Cipro for the company called Apotex?

Senator Carstairs: Honourable senators, the generic drug Cipro, which is a copy — that is what a generic drug is — would obviously result in the same reply as the original response.

Senator Tkachuk: Will it be the practice of the Canadian government to purchase drugs from the manufacturer, the patent holder, and also the generic drug company that have not been approved by the Department of Health?

Senator Carstairs: Honourable senators, it is interesting that the Conservative Minister of Health for the Province of Ontario seems to have made that decision. The reality is that we are in a potential emergency situation. The potential is that anthrax could be spread to Canadian citizens. I happen to entirely support the Honourable Allan Rock in his desire to put the health of Canadians before anything else.

Senator Tkachuk: Has there been a case of anthrax in Canada?

Senator Carstairs: No, there have not been any cases of anthrax, either as a result of heightened interest following September 11 or previously.

To be fair, it is my understanding that only 18 cases of anthrax have ever been diagnosed. That is why the situation has never been designated an emergency. However, we have cause for concern, and clearly the Americans, who purchased 100 million pills, share that concern.

PURCHASE OF GENERIC ANTI-ANTHRAX DRUG— BREACH OF PATENT ACT

Hon. John Lynch-Staunton (Leader of the Opposition): Along the same line, honourable senators, we all agree with the Minister of Health that his main responsibility is the security of the health of the nation. We support him in that, but we expect him to do it legally.

Why, if there is a sense of near-emergency, which means there is a sense of emergency, which means there is an emergency, did he not simply invoke section 19 of the Patent Act? This would have legalized everything he has done and would have avoided the embarrassment caused not only to the government but to Canada, which is now seen across the world as not respecting the international obligations it ratified only a few months ago under the amendments to the Patent Act. Why did he not just follow the law?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the answer is quite clear. He put safety first.

Senator Lynch-Staunton: Honourable senators, how can his concern for safety be supported by the fact that he ordered an antibiotic that has yet to be approved by Health Canada for whatever purpose?

Senator Carstairs: Honourable senators, we are not dealing with a particular infection that gives one the luxury of two or three or four weeks to put everything in place. We are dealing with an infection that can potentially kill in a matter of days. I think the Minister of Health did the right thing.

NATIONAL DEFENCE

ELIMINATION OF HAZARDOUS MATERIALS PLATOONS FROM INFANTRY BATTALIONS

Hon. J. Michael Forrestall: Honourable senators, notwithstanding that answer, one is prompted to wonder whether we are followers or leaders.

My question is directed to the Leader of the Government in the Senate. I would have asked it yesterday had it not been for the pressing nature of the questions put forward then.

With respect to the degree of seriousness on the part of the government over the war on terror, if the government is as serious as it suggests, may I ask why it is then prepared to sacrifice Canadian rights? Why is it in the process of eliminating the only real NBCW decontamination force in the army, namely, the Pioneer Platoons?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, first, my honourable friend began with a preamble that talked about followers or leaders. Allan Rock is a leader, and I am quite prepared to support that kind of leadership.

In terms of the war on terror, Senator Forrestall asked the question yesterday. He seems to feel that he has indications that this force is being dismantled. I have no indication of that. I have told him that I will seek that information, and, as with every other question he asks, I will get back to him as quickly as possible.

Senator Forrestall: At some point it becomes a little appalling to be ahead of you, madam.

Senator Robichaud: Come on.

Senator Forrestall: You come on.

ELIMINATION OF INFANTRY BATTALIONS AND A BRIGADE

Hon. J. Michael Forrestall: Can the minister tell us why the mortar platoons are being eliminated from infantry battalions? Why is the government now planning on eliminating three battalions of infantry and one brigade by the year 2006 just when we are on the verge of having to find soldiers, men and women, to complete our responsibilities and obligations already undertaken?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as my honourable friend knows, shifts are made on a regular basis within the services in order to utilize our Armed Forces to the best degree possible. As to his specific questions about the battalions, I will forward them to the Minister of Defence and return with a reply to the honourable senator.

AFGHANISTAN—SHIPS ASSIGNED TO MIDDLE EAST

[Translation]

Hon. J. Michael Forrestall: Honourable senators, I do not know who is forwarding these questions. That is the second or third time I have asked that question.

While the minister is referring questions, what is the name of the frigate that will be dispatched on NATO duty to replace the HMCS *Halifax*? The seven Cormorants sitting on the tarmac in Italy have fully trained crews. The planes have been fully tested. Why are they not home here in Canada? Indeed, why are they not en route to the Arabian Sea?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, to start with the last question, they are not on their way to the Arabian Sea because, as the senator well knows, they have been fitted for search and rescue missions. They have not been fitted for the kind of military operations that the Sea Kings can conduct at this time.

As to the sixth ship, I have informed the Senate on a number of occasions that we do not know what that next ship will be because Canada and its partners have not yet determined what type of ship is needed.

As to his point about asking questions, if the honourable senator looks at his records, he will know that questions asked in this chamber are answered quite rapidly.

Senator Forrestall: I have asked the most unanswered series of questions by any mortal in this Parliament in the last 150 years.

• (1410)

OPERATION APOLLO—ASSIGNMENT OF SEA KING HELICOPTERS

Hon. J. Michael Forrestall: Honourable senators, let me ask the leader, because she has said something that prompts me to ask once again in a different way: Are all of our Sea Kings now deployed in the five ships tasked to the war on terrorism? Are they operational? Do they have the capacity to defend even themselves?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, Senator Forrestall may not like the answers he gets, but there is no guarantee in parliamentary practice that you will always like the answer you get.

In terms of the Sea Kings that are on their way now to the Arabian Sea, there are, I understand, two attached to the supply ships and destroyer and one each attached to the frigates. They are in working order.

ORDERS OF THE DAY

CUSTOMS ACT

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker announced that Bill S-23, to amend the Customs Act and make related amendments to other Acts, had been received from the House of Commons along with a message to the effect that it had passed the bill without amendment.

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

October 25, 2001

Mr. Speaker,

I have the honour to inform you that the Honourable Louise Arbour, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 25th day of October, 2001, at 3:30 p.m., for the purpose of giving Royal Assent to certain bills

Yours sincerely,

Michèle Lévesque
Deputy Secretary
Policy, Program and Protocol

The Honourable
The Speaker of the Senate
Ottawa

[English]

IMMIGRATION AND REFUGEE PROTECTION BILL

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cordy, seconded by the Honourable Senator LaPierre, for the third reading of Bill C-11, respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger.

Hon. Consiglio Di Nino: Honourable senators, thank you for the opportunity to once again participate in this debate. I must confess at the outset that I have real problems with this bill. My concerns range from the unreasonable demands of the Minister for Citizenship and Immigration that we pass this bill immediately, to the government's claim that even after the tragic events of September 11 no changes need be made to the bill to reflect the reality of our changed world.

I am also concerned about the government's rhetoric about getting tougher on refugees and immigration abuses and tightening our border with the United States. Both are longstanding problems we have been told exist for years now but which the government has so far not seen fit to address in any serious fashion.

The extensive use of regulations should give all parliamentarians, indeed all Canadians, cause for great concern. The same goes for the retroactivity provisions in this bill.

I should note as well that the legal community has expressed grave reservations about the constitutionality of some of the clauses. Many others have questions and concerns related to the qualifications, abilities, competency and accountability of both immigration consultants and members of the Immigration and Refugee Board.

Honourable senators, I have never participated in the study of a bill that has been as universally condemned by nearly all the witnesses who appeared before the committee. This bill represents a milestone of some sort in this regard.

To start with, we were told that there was great urgency to pass this bill. The Minister of Immigration proclaimed far and wide that her government needed to have it passed with a minimum of debate. She claimed the bill could help in the great war against terrorism being prosecuted under the leadership of the United States and only reluctantly, at least until recently, being supported by Canada.

We were originally given three days to study this bill — three days to read, digest, listen, question, debate, ponder and decide on a major piece of legislation that, by the minister's own words, took a fair number of years to research and draft. In three days we were expected to digest this legislation that will have a major impact on the lives of Canadians.

Fortunately, we on this side were not alone in not believing the minister's claims, nor were we alone in wanting to resist demands that the Senate rubber-stamp this bill. Witnesses before the committee from a wide variety of backgrounds and interests supported our contention that the bill needed to be properly debated. They dismissed the minister's claim and accused her of everything from smoke-and-mirror tactics and giving Canadians a false sense of security to bogusly attempting to appear as if she was doing something new and vital when in fact the opposite is unfortunately the case.

Also officials from the department, the Canadian Chamber of Commerce, the Canadian Bar Association and elsewhere informed us, again contrary to the minister's original claims, that this bill will not see the light of day until, at the earliest, next spring and most likely next summer. We understand that this is because the regulations will not be ready until the spring.

Let me quote Mr. Jack Manion, former Secretary of Treasury Board and former Clerk of the Privy Council, as he made his presentation before the committee on October 2:

I am a little horrified when I hear how long it will take for the regulations to be prepared to go with this bill. I cannot believe that, in the time the government has spent preparing this bill, regulations have not been drafted.

Honourable senators, pretty well universal condemnation is what we heard in the committee. The recurring theme to which witness after witness returned was simple, as simple as it was clear, resources. That was the word: resources. The people responsible for running our refugee and immigration system have been starved by the indiscriminate cuts to their budgets, cuts based — I can only assume from what I have heard — on no clear rationale aside from government cutting where it thought it could get away with it.

These people told us they simply do not have the tools to do the jobs they have been asked to do. I will quote again from the proceedings, a comment made by David Griffen of the Canadian Police Association:

How serious is Canada, as a nation, about defending its borders

Police officers are growing increasingly wary of political testimonials about Canada's enforcement commitments — statements that are not backed by meaningful resources and support.

It is as simple as that. It has nothing to do with power and authority, nothing at all. The authority and the power to accomplish what the minister wants already exists; we were told over and over again.

The minister admitted as much herself when she informed us through the media that she was going to implement certain portions of the bill whether it was passed or not because the authority to do so already existed in current legislation. The problem, honourable senators, is clearly the lack of resources.

Witness after witness stressed the debilitating effect this had on the ability of the immigration and refugee system to function effectively. They said they need more people, improved technology, new equipment and better training. They do not need, they said, new laws.

Representatives of the Customs Union told us point blank they did not have the training to handle anthrax and other hazardous materials.

This is what he had to say:

I believe there was a document issued last week. It was discussed over the weekend by our health and safety committee....Basically there is some training at our college. It is very limited and not specific to anthrax or the current set of circumstances.

• (1420)

Honourable senators, I suggest that everyone in this chamber must feel a sense of discomfort with that answer. To ask our front-line workers, those most at risk, to protect us from bioterrorist acts without full and extensive training is shameful. As a matter of fact, it may be described as criminal. We ask them to put their health on the line, and perhaps the health of their families as well, and in return we offer them a memo. What type of training and protection are we giving them? The answer, honourable senators, is self-evident. The serious shortage of resources available to people to whom we entrust the front lines of our immigration and refugee system must, and I stress "must," be addressed.

The lack of appropriate resources was also given as the reason, at least in part, for the growing refugee backlog in our country. The number of unresolved cases presently stands at some 34,000. In addition, 27,000 more people have been ordered deported and remain unaccounted for.

Senator Oliver: Are they in Canada?

Senator Di Nino: We do not know. They have simply disappeared. Some people say some of them have gone to the United States. Maybe some have gone back home. Most of them are likely in hiding. Who knows? We have no way of tracking them.

Honourable senators, statistics like this should shock and dismay all Canadians, all the more so when we realize that of the 34,000 refugee claims I mentioned a moment ago, an estimated 15 per cent have abandoned their claim and have also decamped for parts unknown. We do not know where they are.

Senator Oliver: That is frightening.

Senator Di Nino: Surely there is a need, at the very least, for a system of exit controls to identify those who willingly leave the country.

Honourable senators, witnesses before the committee also offered some compelling testimony about the lack of regulatory supervision of what are known as immigration consultants. These people can charge whatever the market will bear for their services, often with unhappy results. I realize that regulatory regimes are a provincial jurisdiction. However, the federal government does have some obligation to ensure that those coming to this country, those we invite and embrace, are not

preyed upon by members of what I understand is a very venal and mercenary business. Although this issue would be best addressed in concert with the provinces, the federal government has the statutory powers to regulate immigration consultants. It should seriously consider doing so if an agreement with the provinces cannot be reached. That would go a long way towards eliminating those unscrupulous consultants who taint the whole system.

People's character is also in issue when we deal with those appointed to the Immigration and Refugee Board. This is not a boondoggle. I realize that criticism of patronage appointments is a perennial issue, but I realize as well that where there is smoke, there is sometimes fire. There is a perception among some in the immigration and refugee community that members of the IRB are sometimes not independent, not impartial, or maybe not as qualified as they might possibly be. As I said, there is no way around this issue when people are appointed to such positions, but the very longevity or continuousness of the criticism from a variety of concerns should give us reason to pause. Perhaps the easiest way around the issue is for the government to simply have the courage to change the appointment process. We have all suggested this in the past few years. By making IRB qualifications professional rather than political, I think we would improve the system and make its work more acceptable.

Honourable senators, I mentioned at the beginning of my remarks that the excessive use of regulation should be a cause of concern to us all. This issue was raised by a number of witnesses who were unhappy with the fact that many of the most important parts of this bill are contained in the regulations that accompany it. These regulations are not to be debated as part of this bill, which I believe is wrong, nor will we as parliamentarians have any say over their implementation, review or revision. This is nothing new. Over the past number of years, it seems to me Parliament has increasingly abdicated its legislative responsibilities to ministerial staff, and particularly the bureaucracy. I think we owe it to ourselves to be more vigilant in claiming and retaining our prerogatives and responsibilities in the face of this increasing encroachment, because if we do not, we are surely sowing the seeds of our own continued, or perhaps a better word is growing, irrelevance in the process of governance.

To give an example, in the explanation of proposed regulations distributed to committee members, there is a suggested provision to reduce the guarantee of sponsorship responsibility for certain classes of immigrants from ten years to three years, which means that those who sponsor people coming in will only be responsible for them for three years in certain cases instead of ten. This is an issue of major importance. As we have been constantly reminded, the financial responsibility for refugee immigrants whose sponsors renege on their commitments lies with the municipalities and provinces. Surely in our role as regional representatives we should at least be consulted about such issues.

Honourable senators, many witnesses before the committee, particularly the Canadian Bar Association and representatives of the legal community, as well as constitutional experts and immigration consultants, expressed grave concerns about the provisions in this bill that deny permanent residents the right to appeal deportation orders resulting from being convicted of a crime for which a sentence of two years or more has been imposed. There is universal agreement that this will be challenged in the courts and that the challenges will likely succeed. Some witnesses went as far as to express the view that judges could be swayed to sentence offenders likely to be deported to two years less a day in order to save them from becoming subject to a deportation. As well, we heard concerns raised to the effect that a permanent resident who may have been in this country since infancy or childhood could, under the provisions of this bill, be forced to return to their country of origin even if they had not been there since the time of their immigration.

Senator Oliver: The bill should be amended, if that is the case.

Senator Di Nino: I agree. This is not a just system.

Honourable senators, the major focus of our discussions in committee was security and refugees, and probably, under the circumstances, rightly so, but I would say that a disproportionate amount of time was spent on these areas to the detriment of an issue that I believe is extremely important, and that is the economic impact the events of September 11 might have should the U.S. decide to tighten its border controls. Whatever we think of the Americans and America, it is imperative to us that they be convinced that Canada is doing its part in keeping out terrorists, criminals and other undesirables. Unfortunately, the government refuses to look at this bill as a golden opportunity to address this important issue, and it is important.

The United States has, for the first time, been victim of a large-scale, violent, terrorist act. They are not, understandably, very happy. They will do everything possible to protect their citizens. We have already had a glimpse of what happens to commerce and tourism when Americans tighten up security at border crossings, and now we are hearing that they insist that all non-U.S. residents register upon entry and exit to their country. This may be an inconvenience to tourists, but it will be disastrous to business. If such a measure were to become permanent, coupled with other restrictions that the Americans may impose, how long would it be before companies whose main markets are in the U.S. consider packing up and transferring their operations south of the border?

• (1430)

How many jobs would be lost and how much prosperity that comes with those jobs would disappear? These are questions that need to be addressed but which have not been addressed. It is my hope that our colleagues studying Bill C-36 will take the time to

consider this issue and look for ways of addressing it in a meaningful manner.

Honourable senators, the observations submitted to the Senate with respect to this bill indicate clearly that the committee unanimously shares the view that this bill needs much attention. I hope the minister avails herself of the combined wisdom contained in these observations. I might add to these observations the suggestion that the Standing Senate Committee on National Finance may see fit to examine the Estimates of the Ministry of Immigration, with an eye to assessing the resources available to people there and what might be needed to enable them to discharge their responsibilities effectively.

Honourable senators, before I conclude my remarks I should like once again to bring to your attention the issue raised by this bill, an issue that is in my personal view critical to the Senate. It relates to our role individually and collectively. The minister and her government came to us a short time ago, in a manner that was cavalier to say the least, and expected, indeed demanded, that we sit on our thumbs and pass this bill. I cannot overstate how strongly I object to that type of action by any government. We all must be attentive, indeed ferocious if need be, in rebuffing such impingements on our institution, our prerogatives, our duties and our rights. We in the Senate have a legal and constitutional role to play in the legislative process. We play a critical part, despite what the Prime Minister may think to the contrary, in the study and airing of controversial issues in the formation of public policy. Each and every time we allow the House of Commons, the Prime Minister or his advisors to impinge on our rights and our prerogatives, we diminish ourselves as an institution.

Honourable senators, I conclude by repeating that I am not happy with this bill. The sheer number of critics, both inside and outside the committee, shows that I am not alone. I am unhappy with the actions and the rhetoric of the minister and her government. We have heard abundant evidence that the bill would not accomplish what it sets out to do, namely, to improve the functioning and efficiency of our immigration and refugee system.

The real problem identified by all the witnesses is the serious lack of resources. This government has bankrupted the immigration and refugee system — the people charged with administration and enforcement. These people desperately need equipment, training, access to technology, and so on. Bill C-11 does not provide any of that. It also fails to take into account the events of September 11. This is particularly true with regard to issues related to border controls. September 11 was a wake-up call. Our immigration and refugee system needs to be modernized. It needs to reflect new realities, and it needs the infusion of massive resources to accomplish this.

Honourable senators, this bill does none of these things.

Hon. Jane Cordy: Honourable senators, I have a question of clarification for Senator Di Nino.

The committee was granted leave by the Senate to sit while the Senate was sitting so that we could, indeed, sit for long hours, and we are thankful to the Senate for giving us that leave. The honourable senator made mention of the fact that the committee met with witnesses on three days. In fact, we met last week on three days. We also met this past Monday, as you recall, to hear witnesses, and on Tuesday we did clause-by-clause study. Therefore, we met with witnesses on four days. On the fifth day, we did clause-by-clause study.

Would the Honourable Senator Di Nino agree with that?

Senator Di Nino: Honourable senators, it is on the record. I am not sure I understand the point of the honourable senator's question. In response to my colleague, what I said is that when we were presented with this bill we were given three days, an unreasonable length of time. I also said, as I said yesterday in my remarks, that thanks to the leadership in the Senate we were able to extend the time, because we defended the role of the Senate to say to the minister, "No, that is not enough time; we will take whatever time we need."

Senator Cordy: Honourable senators, I wish to thank Senator Di Nino for his clarification that indeed the committee did meet for more than three days.

Hon. Pierre Claude Nolin: Honourable senators, I have a few questions for Senator Di Nino. Reading the report of the committee of which the honourable senator is a member, a rather long portion of it talks about the lack of a definition for the word "terrorism." I first want to understand who told the honourable senator that it was not more important or less important to have the definition in the legislation or in the regulations.

Senator Di Nino: Honourable senators, it was not really a question that the witnesses answered. It was a comment and a question, if my memory serves me correctly, made by Senator Kirby to the officials of the department and the minister.

Senator Nolin: In the report of the committee, when it states that various witnesses expressed concern about the bill's lack of definition of terrorism and what it means to be a member of a terrorist organization, did the "various witnesses" suggest an amendment to the bill?

Senator Di Nino: I think it is fair to say, honourable senators, that the majority of the witnesses, particularly those with an understanding of the issues, such as the previous deputy minister, the previous clerk of the Privy Council, people in the immigration and refugee system, all suggested that there should be some serious amendments. As a matter of fact, Mr. Manion, the previous clerk of the Privy Council — again, I am going by memory, and we should not totally trust memory — said that the bill is so bad that it should be scrapped.

Senator Nolin: Honourable senators, I am still dealing with the definition of terrorism, and I refer to a paragraph of the report that deals with that lack of definition. I will read it to ensure that we understand.

The Committee recognizes the importance of defining the term "terrorism," and supports the idea of including such a definition in legislation or in regulation. The Committee wishes to stress, however, that the same definition of "terrorism" should be used in all relevant Canadian legislation. The Committee highlights the definition of "terrorist activity" in clause 4 of Bill C-36, the *Anti-terrorism Act*, which is currently before the House of Commons. A similar definition — adapted to the context of Bill C-11 — should be considered for the regulations that would apply to Bill C-11.

Who proposed that the committee include such a definition that is in Bill C-36 and that it should be included in the regulations?

Senator Di Nino: There were a number of times during the proceedings — and any one of my colleagues can jump in if I am not presenting this fairly — where this was discussed. I would say that happened several times at least.

• (1440)

In questioning by all members of the committee, we were faced with the dilemma of how to deal with a bill that talks about an issue without there being a definition of that issue. It was one of those items that kept recurring throughout the whole of the proceedings.

Certainly, some of the legal experts suggested that. I believe that some of those, including Messrs. Bissett and Manion, dealt with that in questioning. I stand to be corrected in this regard, but a number of people felt sufficient concern about this matter. Obviously, there cannot be two definitions of an issue in two different bills, creating what may be confusion in the administration of the law.

I trust that answers appropriately the question of the honourable senator.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, yesterday morning at the hearing of the Special Senate Committee on the Subject-Matter of Bill C-36, Mr. David Matas, a well-known Canadian refugee and immigration lawyer, made the explicit recommendation that Bill C-11 be amended to include the definition of terrorist activities found in Bill C-36. Does the honourable senator agree with that?

Senator Di Nino: First, I should like to inform honourable senators that Mr. Matas also appeared before our committee. He has appeared before different committees of the Senate on previous occasions. Mr. Matas is a well-respected Canadian with a thorough knowledge and a great interest in this issue.

In answer to the question, not only do I say, yes, but I think the bill has to be amended in that way.

Senator Nolin: Was it proposed that your committee await adopting Bill C-11 until Bill C-36 is adopted?

Senator Di Nino: Yes. Committee members discussed that issue a number of times among ourselves. With all due respect, senators on the other side did not want to postpone the bill. There was an agreement among us that we would not look at amendments during the committee proceedings. However, that does not mean that we may not do so before this bill goes to third reading.

Senator Nolin: Was the minister asked if she recognizes that her bill needs a little improvement? If so, would she accept amendments to it?

Senator Di Nino: We did ask the minister that question. She replied by skating very well. My interpretation of her response is that she would not be prepared to accept any amendments.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I rise on a point of order.

I was at the committee when the minister appeared. In no way did I understand that she would not accept amendments to the bill.

The Hon. the Speaker: I am not sure it is a point of order — please give me a little time, honourable senators. In the meantime, I believe Senator Kinsella wishes to speak to the point of order.

Senator Kinsella: Honourable senators, I heard nothing from the Honourable Deputy Leader of the Government to indicate even in a minimal fashion that there is any point of order.

Hon. Lowell Murray: Honourable senators, I should like to ask Senator Di Nino whether he recalls the committee considering the various recommendations made in the three reports of special Senate committees on terrorism and security matters, generally. The honourable senator may recall that the special committees were quite explicit in some of their analysis and recommendations concerning refugee determination.

Also, on the question of the definition of a security risk, the committees pointed out in several reports that there was a material difference between the definition of security risk in the act setting up the Canadian Security and Intelligence Service, on the one hand, and the definition of security risk in the Immigration Act. They seem to feel that the definition in the Immigration Act is much softer and that the two should be brought into line.

Senator Di Nino: Honourable senators, the reports were alluded to during the hearings. I am trying to recollect whether there were any specific suggestions that some of the provisions be incorporated into the bill. I do not recall.

On motion of Senator Roche, debate adjourned.

CANADA SHIPPING BILL, 2001

THIRD READING—DEBATE ADJOURNED

Hon. Catherine S. Callbeck moved the third reading of Bill C-14, respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts.

She said: Honourable senators, it is a great privilege to begin third reading debate on Bill C-14, the Canada Shipping Act, 2001. This bill establishes the legal framework that focuses on safety and environment, both of which remain high priorities for Canadians.

This bill is about balance. During the consultation process leading to this bill, the government heard from many different interests representing many conflicting points of view. As well, both the Senate committee and the House of Commons Standing Committee on Transport and Government Operations have heard from organizations representing a broad spectrum of opinion as to what laws should be applied and the need to enforce them. These organizations included the Canadian Maritime Law Association, the Canadian Shipowners Association, the Canadian Yachting Association and the Canadian Shippers' Council.

Let me emphasize that the organizations that appeared before the Standing Senate Committee on Transport and Communications generally support the bill. They expressed their appreciation for the government's openness throughout the reform process and its willingness to consult with the industry.

Despite the general support, some organizations did have concerns about particular aspects of the bill, and these were relayed to the committee. As mentioned in our report, the committee considers the bill to be a much-needed update of outdated shipping legislation.

Although the committee reported the bill without amendment, we brought forward some observations. The committee acknowledges that regulations which will be developed over the next several years are an integral part of the legislation. As such, it is vitally important for both the Department of Fisheries and Oceans and Transport Canada to continue to involve marine stakeholders during the development of these regulations.

We have been assured by the department that the main concerns of the committee will be addressed by these regulations. The committee's primary concerns have to do with the safety of pleasure craft, the pollution of waterways and the new enforcement scheme.

Under the Canada Shipping Act, 2001, matters related to non-pleasure craft will be the responsibility of Transport Canada, while those relating to pleasure craft will be the responsibility of the Department of Fisheries and Oceans.

A recreational vehicle that is occasionally used for commercial purposes must meet the commercial safety standards while being used for this commercial purpose. The committee had considerable concern about the ability of pleasure craft owners to maintain an occasional commercial operation. However, the committee is satisfied that its concerns have been properly noted by the department and that the department will continue to meet with interested parties in working out the best solution via the regulations.

• (1450)

In the end, the changes to the legislation will ensure safety of passengers and of smaller commercial vessels that are not always used commercially. A person offering a service to the general public has obligations toward safety, and passengers must be able to have reasonable expectations of safety.

Another concern of the committee was the protection of the marine environment. Transport Canada and Department of Fisheries and Oceans officials have worked closely with all interested parties to develop and implement pollution prevention provisions that are modern and consistent with other domestic and international standards.

The penalties for non-compliance will act as deterrents and reflect those imposed in other legislation. The bill asserts Canada's resolve to not allow itself to be used as a dumping ground for ship-source pollutants. This legislation clearly delineates the current roles and responsibilities of Transport Canada and the Department of Fisheries and Oceans when it comes to pollution prevention and response.

However, even if the roles are defined, the department must ensure that adequate resources are available to monitor compliance with the bill and regulations.

The committee heard concern from witnesses about changes to the on-water enforcement scheme. Enforcement of Canada's shipping provisions is fundamental to the overall safety of those who labour in the marine industry and for the protection of the marine environment.

Regarding enforcement, the committee expressed concern that jurisdictional issues must be made clear. The committee is satisfied that the proposed enforcement scheme that includes administrative penalties is suitable for the marine community. Administrative penalties are a more appropriate way of dealing with the majority of regulatory infractions. They are more efficient and cost-effective than the lengthy and expensive court system. The courts are reserved for more serious offences; that is, those that result in significant consequences or where administrative enforcement tools have been ineffective.

Honourable senators, the bill before us represents an essential milestone. It will bring about much-needed change in Canada's marine law. It will usher in a new era of marine safety and environmental protection. This focus, combined with a broader range of enforcement tools, enhances Transport Canada's marine safety enforcement role.

In conclusion, the committee is pleased with the Canada Shipping Act, 2001, but encourages further consultation with interested stakeholders at the regulation stage. This is to ensure that the rules governing the day-to-day boater, as well as the larger vessel, are completely appropriate for the different users of our waterways. We also asked, as mentioned earlier, that the

public be educated about the changes to the legislation and better informed as to the jurisdictional authority of those enforcement officers patrolling the waterways. Finally, as we mention in our report, we look forward to both departments providing the committee with a progress report on this bill in two years.

On motion of Senator Oliver, debate adjourned.

THE SENATE

COMMITTEE OF THE WHOLE—REPLACEMENT OF
SEA KING HELICOPTERS—APPEARANCE OF OFFICIALS ON
PROCUREMENT PROCESS—MOTION IN AMENDMENT—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion, as amended, of the Honourable Senator Robichaud, P.C., seconded by the Honourable Senator Finestone, P.C.:

That at 3:00 p.m. on Tuesday, October 30, 2001, the Senate resolve itself into a Committee of the Whole in order to receive officials from the Department of National Defence and the Department of Public Works and Government Services for a briefing on the procurement process for maritime helicopters,

And on the motion in amendment of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Forrestall, that the motion, as amended, be further amended by adding after "maritime helicopters" the following sentence:

"And upon completion of this briefing to adjourn to the call of the Chair to hear further witnesses on matters pertaining to the maritime helicopter procurement process, in particular, Colonel Lee Myrhaugen, retired; Mr. Peter Smith, President of the Aerospace Industry Association; Staff Admiral G. Garnett, former Vice Chief of Defence Staff; Lieutenant General George MacDonald, Vice Chief of Defence Staff; and General L.C. Campbell, Chief of Air Staff and such other witnesses as the Committee may decide are necessary to determine the fairness and equity of the maritime helicopter procurement process as developed by the Government of Canada."

Hon. J. Michael Forrestall: Honourable senators, I wish to first of all thank the Leader of the Government in the Senate for taking this extraordinary step. It does not happen very often. When it does, I think all senators hope that it is fruitful and not a waste of the Senate's very valuable time.

I thank even more the Leader of the Opposition in the Senate for his amendment with respect to the number of witnesses that we would like to call.

Honourable senators, I am sure this was a difficult decision for the government house leader. I am sure she had somewhat of a battle on her hands, persuading people in the Prime Minister's Office to even consider bringing forth what we now know to be a pretty sterile motion, allowing only for relatively low-level briefings over a couple of hours by officials on the Maritime Helicopter Project. No doubt Mr. Jeffrey Simpson will have a new chapter for his book on Prime Minister Chrétien, which we now know to be titled *The Friendly Dictatorship*.

Honourable senators, the motion before us is far less than what was asked for and what we expected. No ministers will be present to answer questions. No ministers will be asked why. No senior officials of Public Works and Government Services or the Department of National Defence will be present. Instead, we have the Assistant Deputy Minister of National Defence, Alan Williams. I do not call that particularly high level. He was formerly the ADM of Public Works and Government Services Canada. There will be no military witnesses whatsoever.

In addition, we have Ms Jane Billings, the Assistant Deputy Minister of Public Works and Government Services Canada, but again no senior officials from that department: no minister, no deputy minister.

Honourable senators, in addition to that, we have no witnesses. Apparently, we are not allowed to call witnesses, including Friends of Maritime Aviation. We cannot call Colonel Myrhaugen, who could shed much light on the difficulties that now surround the Sea King replacement program. We have no officials from the Naval Officers Association, as they are excluded by this motion. There is no representation from the aerospace industry. The Aerospace Association of Canada will not be called, again, because it is excluded. The list could go on of witnesses excluded from testifying before the Senate committee. Senators, we must ask why.

Unfortunately, we have a motion that I suppose can best be described as a *Muppet Show*. You can almost hear the young career civil servants saying, "Dance while I twiddle your thumbs in this regard."

This is not acceptable. To me, it is somewhat offensive. Nor is it acceptable to the families of those men and women who are currently making their way toward the Arabian Sea and other destinations to prosecute an undertaking of some concern to every free, caring person on the face of this globe.

• (1500)

This will not be an investigation of the procurement process by the Committee of the Whole of the Senate of Canada. It will be an hour and a half or two hours on Tuesday, October 30, probably at six o'clock when the day's work is done. The press, who are never here in any case, will not be here under the threat of mortal sin. We will be talking to ourselves.

I will return to Senator Lynch-Staunton's amendment, which gives us more substance. It is to his motion that I direct my plea to all honourable senators for support.

I do not blame the Leader of the Government, as I said. Well before this motion was placed, I was informed that at least one Liberal was telling people from outside of Parliament, members of one of the helicopter companies, that these would be low-level briefings and that they would ram — I lift that word directly — this matter through the Senate. Heaven forbid that we try to get at the truth, try to have witnesses in front of us to tell us the sad history.

Honourable senators, do you know where the Prime Minister was when the Sea King replacement project started? He was a member of the Trudeau government in 1978, 23 years ago.

Let me give honourable senators one example of this government's fear of the Sea King replacement project. In February or March of this year, five Cormorant EH-101 search and rescue helicopters sat on the tarmac in Italy waiting for this government to take delivery. Crews were trained while these machines sat idly by, again waiting for Canada to take delivery. Two, we learn, were recently delivered, hopscotching across Canada, the roof of the world, in the dead of night so as not to be spotted and are currently on the West Coast. Why did we not welcome them? Why was there no fanfare? Usually, when we buy a multi-billion dollar piece of equipment, it is met with brass bands and plenty of the other kind of brass to trumpet its arrival. No such thing took place this time. The Prime Minister can play golf when we go to war, but everyone in Ottawa was too busy to welcome our new Cormorant EH-101 search and rescue helicopters. No one turned out to welcome them. Indeed, no Canadians, other than a handful in the Canadian military and one or two air traffic controllers, knew of their presence in Canadian airspace.

We now know that seven additional Cormorants are sitting on the tarmac in Italy, again, with fully trained crews. These planes are ready for Canada to take delivery. I will not get into the controversy about the capacity of the Sea Kings to hover in heat. They cannot hover in heat very long because they are ancient and cannot sustain the weight of anti-submarine warfare, self-defensive warfare equipment. That is part of their makeup.

The Cormorants would not have had any trouble at all. They could have been fixed up with defensive weapons systems very quickly, not the seven months that these planes have been sitting on the ground in Italy. We do not have them. I suppose it could be suggested that the Prime Minister is so embarrassed about the Sea King and the Cormorant that he does not quite know what to do about it.

One cannot help but draw the inference that government officials, in the eight- to ten-hour days they put in at work, do not have much time for Canada's military capabilities. Clearly, there is no evidence, certainly not from the Minister of National Defence, that anyone cares about our service personnel or Canadians, generally, in need of good search and rescue helicopter capability. This is the Liberal Party. The Minister of National Defence, the parliamentary secretary and at least one senator have ripped their retired senior officers for speaking out. The suggestion is that the former senior serving officers gain a conscience only when they leave the service and start to draw their pensions. I say shame. This is contemptible.

What of democracy, honourable senators? Do military Canadians of the highest rank, once they have left the military, pass through a period of silence that they are obliged to keep? If they have a conscience, do they not have a right to speak out about what concerns them? Do they not have an obligation to speak? These men and women who know the currency of what is going on with respect to the replacement are national heroes like General MacKenzie, General Belzile and others. Are they not responsible Canadians? Does someone suggest they are not caring Canadians or do not know what they are talking about? Does someone suggest we should not listen to them? I hope not.

Thankfully, Senator Lynch-Staunton has brought forward the names of a few witnesses who could, if called, shed some light on this troubled program. Vice-Admiral Garnett and Lieutenant-General MacDonald are critical witnesses that the Senate, in my judgment, must hear from. For the sake of fairness and getting at the process that we are mired in now, they should be heard. They control the money for the program, and they must be heard to give these hearings any degree of credibility.

As well, out of common sense and decency, the government must hear from the president of the aerospace industry of Canada. To not hear from him is to leave a big gap in Canadians understanding where this process has gone astray.

Honourable senators, I ask that you think carefully over the next few minutes about whether two relatively low-level witnesses can do justice to exposing the problems that have plagued the replacement of the Sea King helicopters for 25 years now.

• (1510)

I ask honourable senators to recall the words of Edmund Burke:

The only thing necessary for the triumph of evil is that good men do nothing.

If we as good men and women do nothing to shed light on the procurement of helicopters to replace the Sea Kings, then we will have allowed evil to take a bit of a step. Now more than ever we should shed some light. God knows, I am sick and tired of non-answers. We almost had words today with the Leader of the Government in the Senate. In my 37 years of Parliament, I have asked many questions. Go back and look at my record in the House of Commons. I have received many answers on the Sea King issue.

I believe the Leader of the Government is trying but I wish we knew how to help her try harder. She is not well briefed. We are not getting the answers that we need. That is why we are here today, watching, some of us eagerly — as are thousands of Canadian service personnel — to see what we do in Committee of the Whole on Tuesday, October 30.

The Hon. the Speaker: Senator, I wish to advise that your 15 minutes have expired.

Senator Forrestall: That is enough.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I wish to emphasize the key part of Senator Forrestall's presentation. If the Committee of the Whole limits itself to listening to only two government-sponsored witnesses, we can pretty well anticipate the answers we will get to certain questions. We can anticipate, too, that we will not get any answers to some key questions. They are not equipped, from what I know of their backgrounds, to explain to us the reasoning behind the decision of the government to engage in the current unusual bidding process.

We will do our best to be objective in our questioning of the two, but I can tell you that we have some grave doubts that we will come out of it with any more information or clarification than we have now. That is why I ask all honourable senators to support this amendment. There are no controversial figures who are being proposed as additional witnesses. They are all either currently involved in a practical manner in the helicopter issue or they have been in the past. They are senior military officials and retired military officials; one is responsible for the association that represents all the potential bidders as we know them. They can bring to our deliberations some intelligence and some explanations that the two officials who will appear here on Tuesday cannot provide.

Our deliberations next week, if limited to two officials, one from Defence, one from Public Works, will be restricted and, I am afraid, not very productive. I appeal to honourable senators: If we want a complete assessment of the helicopter bidding process, it is essential that we expand the witness list. We can start by supporting the amendment before us.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Those in favour of the motion in amendment please say yea.

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed will please say nay.

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the nays have it.

Senator Kinsella: On division.

Motion in amendment negatived, on division.

MOTION IN AMENDMENT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, we are back to the main motion. Though we have indicated our disappointment with the process, nevertheless, we will be here on Tuesday in Committee of the Whole.

I have a technical matter to deal with. There is an agreement to have the Committee of the Whole televised, but we need a motion adopted by the Senate to that effect. Therefore, I move, seconded by Senator Atkins, that:

The motion be amended by replacing the period at the end of the motion with the following:

; and that television cameras be authorized in the chamber to broadcast the proceedings of the Committee of the Whole with the least possible disruption of the proceedings.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Hon. Senators: Agreed.

Motion in amendment agreed to.

The Hon. the Speaker: Is it your pleasure, honourable senators to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

FEDERAL NOMINATIONS BILL

SECOND READING—DEBATE CONTINUED—
POINT OF ORDER—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Stratton, seconded by the Honourable Senator Cohen, for the second reading of Bill S-20, to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions.—(*Honourable Senator Robichaud, P.C.*)

The Hon. the Speaker: Honourable senators, before we proceed with Order No. 3, I am prepared to proceed with the outstanding ruling on this item today. However, it is rather long and may take more than the time we have left between now and the arrival of the Governor General's representative. We can either adjourn to the call of the Chair or proceed with the Order Paper and revert to this. Is it your pleasure to proceed with the Order Paper and revert after Royal Assent?

Hon. Senators: Agreed.

Order stands.

CANADA CORPORATIONS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Norman K. Atkins moved the second reading of Bill S-30, to amend the Canada Corporations Act (corporations sole).—(*Honourable Senator Atkins*).

He said: Honourable senators, it gives me great pleasure to rise today to speak in support of Bill S-30, which I tabled for first reading here in the Senate just before we rose for the summer break.

Bill S-30 is entitled "an act to amend the Canada Corporations Act" and it specifically deals with the concept of that ancient legal entity, the corporation sole. The purpose of this bill is to provide an administrative method by which corporations sole can be established or changed, rather than through the necessity of a specific bill being introduced here in the Senate and subsequently passed by Parliament.

The intent here is to put corporations sole on the same footing as other not-for-profit corporations, incorporated under the Canada Corporations Act. Note, however, this bill still gives the proponents of the corporation sole the option of proceeding by a bill introduced in the Senate if they so choose.

It is my belief that the necessity of Parliament being involved in the administrative matters of corporations sole has long since passed. I liken this evolution to the change in the way we dealt with divorces when they used to come before the Senate. Eventually parliamentary involvement was no longer necessary.

Historically, the corporation sole was a device designed to solve the legal problems associated with the holding of an ecclesiastical office and that office actually owning land and fixed assets.

• (1520)

As a result of the corporation sole, the church official — rector, bishop, et cetera — was considered to be a corporate entity and all property associated with the church was seen to be owned by the corporation, not by the individual church leader personally.

This facilitated the transfer of property, as it was the corporation that owned it, not the individual clergy person. For example, on the death of the clergy person, the property would not go to his personal successors but would remain in the name of the diocese. At the present time, the Canada Corporations Act does not allow for the incorporation of this type of vehicle through administrative action, as with other not-for-profit corporations. Therefore, Parliament must deal with each specific amendment to existing corporations sole statutes and is the only vehicle for the incorporation of new corporations sole.

As I said at the beginning of my remarks, I believe it is time we changed the method of incorporation.

Honourable senators, a number of states in the United States have enacted statutes that allow corporations sole to be dealt with in an administrative fashion. The State of California has a corporations sole statute. It grandfathered all existing corporations sole. It also provides an administrative mechanism whereby new corporations sole can be created and existing ones can be changed. It provides for continued existence, powers, dissolution if necessary, and disposition of assets upon dissolution. I believe it is time we streamlined this procedure and adopted a similar statute in Canada.

I understand that in the near future the government may be bringing in a new proposed non-profit corporation act. I would hope that this bill could lead the way in reform of the corporations sole part of that bill.

This bill addresses the legislative gap in the Canada Corporations Act by allowing, as an option, the incorporation of a corporate sole or changes to its original incorporation through administrative measures. It puts the corporations sole in the same position as other not-for-profit organizations incorporated without sheer capital. The corporations branch of Industry Canada, which is responsible for not-for-profit corporations, would take over the responsibility for dealing with corporations sole.

After this bill is enacted, if a corporation sole wanted to change its original incorporation documents to change its borrowing authority, as many have done in the last few years, all it will need to do is apply to Industry Canada for this authority.

It would seem to me, from an administrative point of view, that the corporations branch would have to establish the legitimacy of the application and that it would proceed as a paper transaction without the necessity of new legislative authority being given. On the other hand, if the group still wished to petition Parliament to change its incorporation documentation, that option is preserved under this bill.

I ask that honourable senators support the principle of this bill at second reading so that it may be sent to the Standing Senate Committee on Banking, Trade and Commerce for detailed study.

Before closing, I wish to thank our Senate law clerk, Mr. Mark Audcent, for his diligent work on this bill and for his attention to detail so that we have before us as comprehensive a bill as possible to deal with this rather arcane subject.

Hon. Eymard G. Corbin: Honourable senators, I wish to congratulate Senator Atkins for introducing Bill S-30. The honourable senator has, in my opinion, dealt quite adequately with the reasons behind this move. I intend to speak to the bill at a future date. Therefore, I will limit my remarks to that for today and move the adjournment of the debate.

On motion of Senator Corbin, debate adjourned.

The Senate adjourned during pleasure.

[Translation]

• (1540)

ROYAL ASSENT

The Honourable Louise Arbour, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Acting Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bill:

[Senator Atkins]

An Act to amend the Customs Act and to make related amendments to other Acts. (*Bill S-23, Chapter 25, 2001*)

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

[English]

FEDERAL NOMINATIONS BILL

SECOND READING—DEBATE CONTINUED—
POINT OF ORDER—SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, as was agreed, we now revert to Senate Public Bills, No. 3, for purposes of a Speaker's Ruling.

On June 5, 2001, Senator Joyal raised a point of order with respect to Bill S-20, An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions, which was presented to the Senate by Senator Stratton. His contention was that because the bill seeks to establish compulsory procedures that ministers must follow when nominating someone to fill certain high-profile public positions, it would affect the prerogative of the Crown. Accordingly, the senator maintained that it appeared that Bill S-20 required Royal Consent.

[Translation]

Other senators made comments on the point of order. Senator Stratton suggested that the matter could be discussed in the Legal and Constitutional Affairs Committee for determination. Senator Kinsella felt that the authority of the executive is not ultimately impeded by the bill. He made the point that nowhere did it state that the purpose of Bill S-20 is to impede the authority of the Crown in exercising its appointment powers. Instead, the bill sets in place some measures to assure transparency in making various appointments.

[English]

I thank all honourable senators for their comments. Having taken the question under advisement, I am now in a position to make my ruling. I will begin by reviewing the parliamentary authorities, then examine the meaning of the prerogative, review the thrust of Bill S-20 and consider whether the prerogative is affected by it, and finally consider the nature of Royal Consent and the procedural consequences of it being required.

[Translation]

As honourable senators are aware, the Speaker does not give a decision upon a constitutional question nor decide a question of law. However, it is undoubtedly the duty of the Speaker to ensure that the proper procedure is followed even with respect to assessing bills that might require Royal Consent because the prerogative is somehow affected.

[English]

The obligation of the Chair to do this is admitted in our parliamentary authorities. Let me begin, however, with some references that explain when Royal Consent needs to be signified. Citation 726(1) of Beauchesne's 6th edition, for example, provides:

726.(1) The consent of the Sovereign (to be distinguished from the Royal Assent to Bills) is given by a Minister to bills (and occasionally amendments) affecting the prerogative, hereditary revenues, personal property or interest of the Crown.

Marleau and Montpetit, *House of Commons Procedure and Practices*, pages 643- 644 state:

Royal Consent...is taken from British practices and is part of the unwritten rules and customs of the House of Commons of Canada. Any legislation that affects the prerogatives, hereditary revenues, property or interests of the Crown requires Royal Consent, that is, the consent of the Governor General in his or her capacity as representative of the Sovereign.

Moreover, as is pointed out in Bourinot's *Parliamentary Procedure*, 4th edition, at page 413:

the consent may be given at any stage before final passage, and is always necessary in matters involving the rights of the Crown, its patronage, or its prerogatives.

[Translation]

As well, I also note with interest what the Leader of the Government in the Senate said with respect to the reasons for which Royal Consent was obtained for Bill S-34, Royal Assent Act, which is now before one of our committees. Senator Carstairs stated on page 1380 of the *Debates of the Senate* of October 4, 2001:

[English]

As Dicey's classic work *The Law of Constitution* states, it is a long standing parliamentary practice, politeness and civility to obtain royal consent in advance to any bill which might affect the royal prerogative or interest, whether the bill is in relation to the prerogative or not. In keeping with this practice, the government sought, obtained and has declared in this chamber royal consent to proceed with Bill S-34.

Two commonly used definitions of the prerogative are those of Blackstone and Dicey. Blackstone describes it as:

that special pre-eminence which the King hath, over and above all other persons, and out of the ordinary course of the common law, in right of his real dignity.

For his part, Dicey viewed the prerogative as the residue of discretionary power left in the hands of the Crown. Consequently every

Act which the executive government can lawfully do without the authority of an act of Parliament is done in virtue of this prerogative.

While the prerogative is obviously an important consideration in the United Kingdom, it is not without significance in Canada as well. According to Paul Lordon, Q.C., author of *Crown Law*, at page 61:

As a general rule, the prerogative of the Crown in Canada exists to the same extent as in England. The *Constitution Act, 1867* did not detract from or in any way affect its form or content.

At page 71:

In Canada, prerogatives are exercised by the Governor General at the federal level and by the Lieutenant-Governor in each province. As members of the Privy Council, the Prime Minister and other ministers also have some powers of the nature of prerogatives.

• (1550)

Turning now to Bill S-20, there is no doubt that its object is to legislate with respect to the appointment process for certain public positions. The bill proposes to establish a committee of the Queen's Privy Council to develop selection criteria and procedures, that is, a process to identify and assess candidates and to provide for a review by the Senate of these appointments. Nominations to the position of Governor General, Chief Justice of Canada, Speaker of the Senate, lieutenant governor of a province, commissioner of a territory, and to the Supreme Court of Canada and the Senate, must be reviewed, while appointments to the Federal Court of Canada and to other superior courts of the provinces may be reviewed.

[Translation]

I must note, however, that the bill seems carefully structured not to change the power of the Sovereign or of the Governor General to make appointments directly. Its scope is limited to governing the actions of their advisors in recommending appointments to be made.

[English]

Of particular concern to Senator Joyal, when he raised his point of order, was the matter of the appointment of the Governor General because it is an appointment that is made by the Queen.

In my view, it is a direct exercise of the Royal Prerogative. According to Hogg, *Constitutional Law of Canada*, second edition, at page 10

...the Crown possessed certain prerogative legislative powers over British colonies. These powers are mainly of historical interest for Canada today; but...the office of Governor General still depends upon a prerogative instrument.

This prerogative instrument is the Letters Patent Constituting the Office of Governor General, 1947, which is still in force.

I conclude, therefore, that, at least with respect to the office of the Governor General, Bill S-20 is about a matter involving a prerogative of the Crown.

[Translation]

This conclusion leads to the next question: does Bill S-20 “affect” the prerogative, that is to say, the exercise by Her Majesty of the prerogative power to create the office of Governor General. The passages from Beauchesne and Marleau and Montpetit mentioned that the prerogative must be affected for consent to be required.

[English]

Under the conventions developed under our Constitution to provide for representative government, the Sovereign acts on the advice of the Prime Minister. Conventions are not legal rules, in that conventions are not capable of enforcement in the courts. However, the letters patent provides that the Governor General is to be appointed by commission under the Great Seal, which means that the signatures of the Sovereign, the Prime Minister and the Registrar General are all required on the commission to appoint a Governor General.

Therefore, until the 1947 letters patent are amended or revoked, the participation of the Prime Minister in the naming of a Governor General is required in law. Furthermore, since the appointment of a Governor General is an exercise of the prerogative, and since the participation of the Prime Minister in an appointment is necessary, the Sovereign is legally entitled to the advice of the Prime Minister on the exercise of Her rights.

The operation of Bill S-20 could give rise to situations in which Her Majesty would be deprived of the ability to make an appointment on advice. I conclude that Her exercise of the prerogative is affected in that, while the bill may preserve the prerogative, it would have an impact on its exercise.

Having now arrived at the conclusion that Bill S-20 affects the prerogative, I must conclude that it requires the Royal Consent. However, what is the Royal Consent?

Marleau and Montpetit state the following on page 644:

It may be given in the form of a special message, but normally it is transmitted by a Minister who rises in the House and states: “Her Excellency the Governor General has been informed of the purport of this bill and has given her consent, as far as Her Majesty’s prerogatives are affected, to the consideration by Parliament of the bill, that Parliament may do therein as it thinks fit.”

In the case of Bill C-20, the Clarity Act, in the last session, and Bill S-34 in this session, a variation was used.

[Translation]

There is no known example in Canada of consent being refused. This raises the issue of whether a convention may have evolved here that consent will be granted, making the request for

it a formality. The alternative is that, by operation of an advice that consent will not be forthcoming, Parliament could actually be prevented from debating a legislative measure that members considered to be in the public interest.

[English]

A possible reason to refuse consent may be to prevent debate. However, note should be taken that consent does not mean endorsement. Marleau and Montpetit note at page 644 the following:

The fact that the Crown agrees to give consent does not, however, mean that it approves the substance of the measure: it merely means that it agrees to remove an obstacle to the progress of the bill so that it may be considered by both Houses, and ultimately submitted for Royal Assent.

I should like to draw the attention of honourable senators to a precedent from Westminster where the Queen’s Consent, what we term Royal Consent, was required for a private member’s bill. This bill, entitled “Crown Prerogatives (Parliamentary Control) Bill,” was proposed by a backbencher, Mr. Tony Benn, and sought to provide a parliamentary role to the exercise of a whole range of prerogative powers. The object of the bill, as I understand it, was to subject these prerogative powers to the approval of the House of Commons through an affirmative resolution. In the end, the bill was finally dropped from the Order Paper, but not before receiving the Queen’s Consent, signified by a minister of the Crown, when the bill was scheduled for second reading. This consent was given despite the fact that there was no indication at all of the government’s agreement to the bill. This highlights another important characteristic of Royal Consent. The fact that consent is signified or accorded to a bill does not necessarily mean that the bill is supported or approved either by the Crown or its advisers. Therefore, it is important to note that there is a tradition, at least at Westminster, that the government does not use its unique access to the Crown to limit debate, since it is not bound by convention to support matters that require Royal Consent.

Honourable senators, when this point of order was raised, I accepted to take it under advisement, but ruled at the time that, while the point of order was under advisement, debate on the bill might proceed. Now that I have ruled that consent is required, it continues to be the case that debate on the bill may proceed.

In support, I note the precedents where consent is given in one House to legislation originating in the other. Bourinot’s records an example of consent being signified in the House of Commons, rather than the Senate, to a Senate amendment to a Commons private bill. I also note Bill S-2, Bill S-6 and Bill S-25 in the Second Session, Twenty-fourth Parliament, which lasted from January 15, 1959 to January 18, 1959, where consent was signified to Senate bills in the House of Commons after the bills had passed the Senate. Royal Consent has also been signified with respect to House of Commons bills in this chamber: in 1951, just prior to second reading of Bill 192, an act to amend the Petition of Right Act, and most recently, on June 29, 2000, to Bill C-20, the Clarity Act, just prior to third reading.

[Translation]

In the 1999 ruling in this House, the Speaker noted that this was “an accepted departure from the practice at Westminster” (where consent is signified in each House), and also noted that “based upon the Canadian precedents, it would appear that there is no binding precedent that royal consent be signified in this Chamber.”

[English]

INTELLECTUAL PROPERTY RIGHTS OVER PATENTED MEDICINES

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Finestone, P.C., calling the attention of the Senate to three diseases which are sweeping the developing world and which draw many to ask whether intellectual property rights over patented medicines have not taken precedence over the protection of human life.—(*Honourable Senator Keon*).

• (1600)

Hon. Wilbert J. Keon: Honourable senators, I rise today to address Senator Finestone's inquiry on the issue of the discrepancy between intellectual property rights and the accessibility to patent medicines to treat the debilitating diseases sweeping the underdeveloped countries: HIV/AIDS, tuberculosis and malaria, which claim the lives of some 4 million people annually.

I commend Senator Finestone for calling attention to a global issue that not only threatens the social and population balance in poor, developing countries of Africa and South Asia, but one that may have direct repercussions in our own country very soon.

Since the terrible, tragic events of September 11, the public's concern to protect themselves from bioterrorist attacks has been very strong. While bioterrorism does pose an imminent threat, it is underlined by a fundamental principle of action that there needs to be an eradication of the global epidemic of infectious diseases for humanitarian reasons and for our own national security.

Along with the threat of anthrax, which is currently gripping North America, smallpox constitutes another arsenal of biological warfare that could wreak havoc if exploited by terrorists. While this disease was eradicated in early 1977, vaccines to treat this incurable disease are scarce. In January 1999, the World Health Organization voted to destroy all vaccines with the exception of two remaining official stocks — one in Pennsylvania, the other in Siberia.

I acknowledge our government for having to date stockpiled approximately 380,000 doses of smallpox vaccines which,

through dilution, could treat about 3 million people, as well as Minister Rock's announcements of \$12 million in funding to battle bioterrorism. However, it is imperative that Canada enhance its capability to produce drugs in sufficient quantities to deal with such circumstances.

As reported in *The Windsor Star* this week, Dr. Donald Henderson, former Director of the WHO's Eradication Unit, revealed that dropping an atomic bomb would cause casualties in a specific area, but smallpox could engulf the entire world. Globally, health officials claim that the disease was stopped because of rapid vaccinations and closing borders. In follow-up to the present crisis, the U.S. government has begun to stockpile vaccines available to its entire population.

While the current situation has led all North Americans to speculate on the nightmare scenarios concerning the spread of infectious diseases, this is what populations in the Third World have had to live with for decades on a daily basis and with no solution in view. Indeed, it is on a scale that is almost beyond our comprehension in this country.

Honourable senators, we are not only in a privileged and powerful position to ensure our own capabilities of containing and dealing with our own national health crises, but also one of pursuing and safeguarding global health objectives in the name of humanitarian and compassionate values that has long been enshrined in our foreign policy.

The affordability of medicines is only one of the problems facing poor countries. Inadequate and inequitable public spending on health infrastructure, weak planning, failure to prioritize preventive interventions and ineffective service provisions are also contributing factors. However, the price of basic medicines is a vital factor in determining public health, and Canada is in a position to contribute progressively to all these factors in alleviating the burden of these decimating diseases in underdeveloped countries.

Generic medicines, simply stated, are the most immediate and, in some cases, the sole options for poor people, as exemplified in India, where the vast majority of medicines used for the treatment of malaria, tuberculosis and pneumonia are generic. Referring to generic medicines, I would point out that 5 of our top 20 drug companies are generic companies, and we are not dealing with this issue of the interface between generic companies and the patent drug companies. Indeed, our government has had a very difficult time of late with this issue. It is something that will require careful thought and study in the near future. It is one area where I must say that we could stimulate Canadian industry and the production of drugs which these countries cannot afford anyway. We could make them in our own country and give them to some of our programs that are now in place.

Most underdeveloped countries are beset by gross price discrepancies and intellectual property rights. They simply cannot deal with this whole issue.

Millions of lives are at stake simply because these people cannot afford affordable life-saving medicines. In reiteration and support of the remarks of Senators Poy and Finestone, the protection of intellectual property rights must not override the public health concern, most importantly in terms of crisis and very special urgent circumstances as those experienced in the Third World at the present time.

Indeed, in times of crisis, patents could be waived as stipulated in our own national 1993 legislation on patents, as well as in Article 31 of the World Trade Organization Agreement on Trade Related Intellectual Property Rights, or TRIPS.

Honourable senators, I am in full support of a broad public health approach in the interpretation of the TRIPS agreement and in the strengthening of its safeguards. Under Article 31 of the agreement, governments can issue compulsory licences to authorize production without the consent of patent holders subject to adequate compensation. Another option available to government is that of parallel importing, whereby governments allow the importation of a patent product that is marketed elsewhere at prices lower than those in the domestic market. It is necessary that these safeguards are protected and strengthened by the international community, as well as in national legislation, just as the current public health emergency warrants.

On an equal note, it is just as imperative that we see to ensuring the quality in the production of generic drugs. This is a problem that I think is underestimated at the present time. There is no question that cheap generic drugs are available that are produced in countries where production standards probably do not meet Canadian standards. This must be taken into careful consideration also.

In consistence with our national principles and international human rights obligations, there must be consensus on the fact that the health crisis in many poor countries constitutes an international emergency. Under Article 31, WTO members may waive the requirement to seek voluntary licences in cases of such emergencies and other extreme circumstances. There is an urgent call to defend these provisions.

As a global health crisis looms over us, either in the form of bioterrorism or the fast spread of infectious diseases in the Third World, we must combine our current legislative tools and values to allow equitable treatment of all citizens. According to Oxfam, only 10 per cent of global research and development is directed toward illness that accounts for 90 per cent of the worldwide disease burden.

• (1610)

As Senator Kinsella said yesterday in his remarks, pharmaceutical companies undertake research at tremendous cost, recovered after a certain period of time, investments that are neither induced nor motivated in small, developing countries, whose markets are simply too small. As Canadians and lawmakers, we have at our disposal the framework to ameliorate these gaps and disparities.

As I said earlier, we must continue to build upon our capabilities to produce sufficient amounts of drugs in times of crisis. I repeat: We must build on our capabilities to produce sufficient amounts of drugs in times of crisis. We are now dependent on a global network of drug production. Many of the drugs that are vital to our own safety and survival cannot even be produced in our own country. We must address this, in addition to having strong partnerships with the private sector, so that everyone is aboard in this endeavour.

The legislation is also in place to respond to urgent situations and to waive certain patents. This is done by the Minister Responsible for CIDA, who has the right to make an application to have the patent set aside during intervention on the national level, as well as within the WTO-TRIPS agreement, where it is essential to have full international consensus and cooperation in recognizing and responding to these public health emergencies.

Honourable senators, the stakes are high in our own country, and they are dangerously high in sub-Saharan Africa. Whether we are dealing with the threat of bioterrorism, or sustaining our health system with soaring drug prices, or addressing the AIDS, TB and malaria epidemics that have afflicted the developing world, there is an extremely urgent need for us to address these issues in collaboration with our other global partners.

Hon. Senators: Hear, hear!

On motion of Senator Fraser, debate adjourned.

CONDEMNATION OF TERRORISM

MOTION—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Pépin:

That the Senate:

- Considering Resolutions 1368 and 1373 adopted by the Security Council of the United Nations on September 12, and September 28, supporting initiatives to eradicate international terrorism that threaten peace, security, human rights and freedoms and the political order of the free and democratic society;

- Considering that in its special session of October 2, 2001, the North Atlantic Council determined that "the attack against the United States on 11 September was directed from abroad and shall therefore be regarded as an action covered by Article 5 of the Washington Treaty, which states that an armed attack on one or more of the Allies in Europe or North America shall be considered an attack against them all";

- Condemn unequivocally the use of violence and terrorism to overthrow the democratic order and the elimination of human rights and freedoms;

- Support the decision of the Government calling upon the Canadian Armed Forces on active service to join the international campaign against the perpetrators of the terrorist attacks of September 11;

- Express its preoccupation that humanitarian support be given to the civilians affected by that campaign;

- Express its urgent concern that the authors and supporters of those terrorists attacks are brought to justice accordingly;

- Express its strong belief that it is through negotiation and peace settlement that legitimate claims of the States should be dealt with in the International Order; and

That upon adoption of this motion, the said motion should be deemed referred to the Standing Senate Committees on Foreign Affairs and Defence and Security for study and report back to the Chamber in the next 30 days.—(*Honourable Senator Stratton*).

Hon. Douglas Roche: I wish to advise the Senate that Senator Stratton gave his consent for me to proceed with my own contribution to this motion.

Honourable senators, the motion brought forward by Senator Grafstein displays, once again, his erudition and desire to lift up Senate debate to address the paramount issues of our time.

There is no doubt that the horrific attacks of September 11 have changed the world. The question I wish to place before the Senate is this: Has our thinking been changed?

The motion rightly begins by referring to the United Nations Security Council's resolutions 1368 and 1373, adopted on September 12 and 28, supporting initiatives to eradicate international terrorism that threatens peace, security, human rights and freedoms and the political order of the free and democratic society.

The relentless bombing of Afghanistan, now in day 18, goes beyond the intent of resolution 1368. When the Security Council gave its assent "to take all necessary steps" to respond to the September 11 attacks, it did not approve a bombing campaign that would kill innocent civilians in their Afghan villages, drive 70 per cent of the people in Herat, population 800,000, out of their homes, kill 10 civilians today on a bus at the city gates of Kandahar, and destroy a Red Cross warehouse, among other unfortunate acts of what is dryly called "collateral damage."

It may seem comforting to say that civilians are not targeted, but it is not "collateral damage" when thousands of refugees fleeing the bombs are jammed along the Afghanistan-Pakistan border in unspeakable conditions. UNICEF warns that the crisis "is threatening the lives of millions of women and children," and that "1.5 million children may not make it through the winter."

Christian Aid, which reported that 600 people have already died in the Dar-e-Suf region of northern Afghanistan due to starvation and related diseases, says needy people are being put at risk by government spin doctors who are showing a callous disregard for life.

The bombing of Afghanistan, one of the most desperate and vulnerable regions of the world, is producing an international catastrophe. The bombing is immoral, unproductive, and only by the most dubious logic can it be said to possess even a shred of legality.

As Article 51 the UN Charter makes clear, it is the Security Council that has the authority and responsibility to maintain or restore international peace and security. Let me emphasize that the bombing coalition, in exceeding the exercise of the right of self-defence, which gave a legal cover to the bombing, has sidelined the legitimate authority of the Security Council to manage this crisis.

It is said that the invocation for the first time of Article 5 of the NATO Charter provides the legal grounds for Canada to give its support to the military campaign. The article provides the solidarity that an attack on one member will be considered an attack on all, and thus NATO can take the responsive actions it deems necessary.

However, where has it been proven that the Government of Afghanistan, despotic as it is, engineered or carried out the attacks on the World Trade Center and the Pentagon? It has yet to be confirmed that any of the 19 suspected hijackers comes from Afghanistan. Is the belief that Osama bin Laden, the terrorist leader, is in Afghanistan justification for imposing catastrophe on the entire populace?

Continued bombing is not what the United Nations intended. The bombing must stop now. Canada, to be faithful to its own values, must press the United States and its coalition partners to call a halt so that humanitarian aid can reach the desperate people of Afghanistan.

It is this kind of knee-jerk, military response to a crisis that worries thoughtful people today, people who understand that violence is not the proper or productive response to violence.

When I asked at the outset if this crisis can result in changing our thinking, this is what I meant. The very nature of the new world we have entered compels us to seek the building of enforceable international law as the means to human security in a globalized world. Continued recourse to the old instincts of militarism will lead to more violence and, in the age of weapons of mass destruction, to the wreckage of large areas of the planet.

Terrorism must be stopped, and stopped now, before the terrorists of the future acquire nuclear devices and set off a calamity that will make the New York-Washington attacks look small.

The UN Secretary-General told the United Nations General Assembly that, tragic as September 11 was, a single attack involving a nuclear or biological weapon could have killed millions. He called for a redoubling of efforts to ensure the universality, verification and full implementation of key treaties outlawing all chemical and biological weapons and for implementation of the Nuclear Non-Proliferation Treaty, which calls for negotiations to eliminate all nuclear weapons. Would that the United States, NATO, and, yes, Canada would follow the Secretary-General's words with the same alacrity that they implemented a bombing campaign in Afghanistan.

I repeat, honourable senators: It is the utmost folly to think that we can end terrorism by trying to bomb terrorists out of existence. Our work, as the fullness of Resolutions 1368 and 1373 explicates, must be undertaken with a new understanding of the world we live in.

It is this new understanding that the Canadian Pugwash movement, the Canadian affiliate of the Canadian Nobel Peace Prize-winning International Pugwash movement, has tried to advance in its statement issued October 20, 2001.

• (1620)

There it is pointed out that in 1945, as the Second World War was ending in Europe, the leaders of the victorious states met in San Francisco to save future generations from the scourge of war. The United Nations, now co-recipient of the 2001 Nobel Peace Prize, was the result. Since then, there has been a tragic succession of wars, the latest of which is the so-called war against terrorism.

Terrorists can potentially come from anywhere, live anywhere and strike anywhere that opportunity exists. Their cover lies in the society in which they live. Their weapons are tools taken from everyday life, and their targets are the people and institutions of society. Their power is to disrupt through fear, to provoke repression and to sever the links of peaceful commerce, setting state against state, nation against nation, race against race and people against people. Living among their victims, they present targets that cannot be eradicated with the fire-power of armed forces. Other means must be explored.

Those, like Pugwash, who oppose the bombing, question these means of dealing with the terrorism problem because of the unintended consequences, including innocent civilian deaths, the radicalization of Arab youth, the destabilization of friendly states, and the danger that it will spread warfare along the cultural divide separating Islam from the West. Furthermore, the war in Afghanistan is of doubtful effectiveness. Now that the fighting in Afghanistan has begun, it has a life of its own with further escalation likely.

The road ahead must be trod with great caution with respect to reliance on the military approach. Much greater emphasis must be placed on non-military measures that will lay the foundation for a world free of the terrorist threat. Here, Canada must play a

much greater role than what is outlined in Bill C-36, the anti-terrorist legislation.

Honourable senators, what we need is a global initiative to deter and punish terrorist acts in the present and future. This means developing an effective system of international criminal law in which individuals are held accountable before an impartial tribunal, such as the International Criminal Court. A prosecutor with strong powers of investigation and prosecution will be needed. It also means strengthening international treaties dealing with terrorism and weapons of mass destruction and developing the machinery for their effective implementation according to the due process of law. This will require a strengthening of the United Nations and its ability to define and shape the actions that are taken for the enforcement of international law, and to monitor and verify these actions so that they are done proportionately and in accordance with the UN Charter and international law.

In the aftermath of the bombing, a large and sustained effort will be necessary for the reconstruction of Afghanistan and the democratization of countries known to be supporting terrorist groups.

In order to "win the war" against terrorism, it is necessary to deal with the hatred and the sense of powerlessness upon which terrorism feeds. What we need is the patience and the resolve to diminish such hatred. This will require significant efforts to reduce inequity between peoples and individuals and to strengthen international mechanisms for protecting human rights. Furthermore, it means the subordination of narrow-minded nationalism in all parts of the world to the common interest, in a world where no person or nation is an island entire to itself, separate from the main. Global human society, with the United Nations as its meeting place, is where the future of mankind should be decided.

The Canadian government needs to develop the long-term means to deal with the roots of terrorism. This entails significantly increased resources, including a major enhancement of its financial commitment for development assistance, international peacekeeping, peacemaking and peace building. The government should ensure that the UN Security Council plays the lead role in response to terrorism around the globe. It should continue to work for a biological and toxin weapons verification protocol, for a cut-off of fissile material and for nuclear disarmament.

The work that began in 1945 must continue with a new vigour and commitment. It is time to convert the resources and habits of war to global justice and peace, to eradicate chauvinistic nationalism and bellicosity and to transform competition into cooperation in the global arena. The rule of law must govern the behaviour of states as well as individuals.

This is the work of the new 21st century, honourable senators. If it is done well, September 11, 2001, could mark a new departure point for a world free of the terrorist threat.

On motion of Senator Robichaud, for Senator Stratton, debate adjourned.

CABLE PUBLIC AFFAIRS CHANNEL

CLOSED CAPTIONING SERVICE—
INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Gauthier calling the attention of the Senate to the current negotiations on the renewal of the broadcasting agreement between the Senate and CPAC (the Cable Public Affairs Channel) to ensure that they include the closed-captioning of parliamentary debates authorized for television, and that the renewal of this agreement reflect the commitments made by CPAC on services for the hearing impaired.—(*Honourable Senator Kroft*).

The Hon. Richard H. Kroft: Honourable senators, I am pleased to participate in this inquiry in which Senator Gauthier has called the attention of the Senate to the current negotiations on the renewal of the broadcasting agreement between the Senate and CPAC, the Cable Affairs Channel, to ensure that it includes the closed-captioning of parliamentary debates authorized for television and that the renewal of this agreement reflect the commitments made by CPAC on services for the hearing impaired.

As I stated on October 2, 2001, as Chair of the Standing Committee on Internal Economy, Budgets and Administration, I intend to keep this chamber advised on the progress of our negotiations with CPAC.

On August 31, 2000, the Senate's agreement with CPAC, originally signed September 9, 1998, to broadcast Senate committee meetings, expired. On September 1, 2000, then chair of Internal Economy, Senator Rompkey, wrote to the Director General of CPAC proposing that the agreement continue until discussions with CPAC on a new agreement are completed. On September 1, 2000, CPAC replied that it agreed with this proposal. There was nothing in that agreement with respect to closed-captioning and broadcast of Senate committees by CPAC.

I can report that negotiations have been taking place between Senate officials and CPAC on a new agreement and that the issue of closed-captioning is one of the issues on the table.

As Senator Gauthier is aware, the CRTC issued broadcasting requirements in 1995 regarding closed-captioning. In a March 24, 1995, public notice communiqué, the CRTC dealt with a number of social issues regarding decisions to renew the licences of privately owned language television stations, including services to the deaf and hard-of-hearing. For large stations, specifically those earning more than \$10 million in annual revenues, the CRTC required licencees to closed-caption at least 90 per cent of all programming during the broadcast day by the end of their licence term. For medium stations, those earning between \$5 million and \$10 million, the CRTC only expected them to meet this requirement. For small stations, those earning under \$5 million, the CRTC encouraged them to meet this requirement.

CPAC is not a television station but rather a satellite-to-cable programming undertaking owned by members of the cable distribution industry. It is funded by its network affiliates and operated on a not-for-profit basis. It is, therefore, exempt from the CRTC requirements for closed-captioned broadcasting.

In its licence renewal decision for CPAC as described in Decision 95-22 dated January 20, 1995, the CRTC did raise the question of CPAC's services to the hearing impaired.

• (1630)

I should like to quote from that decision:

As part of its renewal applications, CPAC indicated that it will spend annually from \$30,000 in the first year to \$53,600 in the last year of the new license term for services to the hearing impaired. CPAC will use line 21 of the Vertical Blanking Interval for closed captions and a text channel to support both captioned programs and program schedules. CPAC stated that the text channel will be operational by the end of the second year of the new licence term. A second audio program channel will be used for translation audio. CPAC also expects to have a full-time captioner on staff by the end of the first year of its new license term. CPAC thus plans to increase its annual level of captioned programming to 632 hours by the end of its licence term. In addition, CPAC has indicated it will endeavour to obtain captioned programming from other sources whenever possible. A telecommunication device for the deaf (TDD) phone line will be installed during the first year of the new license term, to be operational during regular business hours.

The Commission acknowledges the opposing intervention submitted by the Canadian Association of the Deaf with respect to access for deaf and hard-of-hearing persons to CPAC programming. The Commission is satisfied with the licensee's reply to this intervention. The Commission notes, however, that CPAC is not precluded by its agreement with the Speaker of the House of Commons from closed-captioning the programming that CPAC receives from the House pursuant to the agreement. Therefore, in view of the importance the Commission attaches to the issue of services to the hearing impaired, it encourages the licensee to increase significantly the closed-captioning of the programming which CPAC receives from the House of Commons.

These are the commitments CPAC gave to the CRTC. I am afraid I do not have all the details as to how well CPAC has fulfilled these commitments to date. I am informed that, by the end of the year 2000, it was budgeting \$87,000 for closed captioning which will result in the telecast of nearly 3,000 hours of captioned programming. Apparently it is their goal to have the entire prime-time network from 8 p.m. to 2 a.m. closed-captioned. An exact accounting of how well CPAC has implemented its promised services to the hearing impaired will perhaps be fully known when CPAC petitions to renew its broadcast licence which will expire August 31, 2002.

The Senate is also taking steps to improve its services to those with disabilities. These are described in the February 2000 report, "Accessibility for Persons with Disabilities — Action Plan." The document was adopted by the Internal Economy Committee on February 24, 2000, and by the Senate on April 13, 2000. This action plan, which was established in close association with representatives of the disabled community, has as its introduction the following:

Canadians have a right to participate fully in the affairs of the Senate. The following action plan sets out a blueprint for improving the participation of persons with disabilities. It has been developed to help dispel some of the myths about disabilities and to help break down barriers which could prevent full participation in the work of the Senate. The goal is to make the Senate of Canada a model of equality and one of the most accessible parliamentary institutions in the country.

It was in accordance with this policy that the Internal Economy Committee authorized technical assistance to the Senate chamber for senators with hearing disabilities. Since April 2000, our Senate Debates Branch has provided a one-on-one service to aid a hearing-impaired senator. This service, called CART, which stands for computer-assisted real-time translation, enables a senator to follow the proceedings in the chamber, committees and caucus as well as on special assignments related to parliamentary business.

Most recently, on October 4, 2001, the Internal Economy Committee adopted a request for Supplementary Estimates (A) that included an amount of \$93,000 to revamp its approach to CART. The purchase of new equipment will enable the Senate to, first, reduce substantially the use of one-on-one CART service and, second, provide a means to work toward completing a dual-language, closed-captioning service of committee meetings through the more effective use of computer technology. The Senate adopted our request for Supplementary Estimates on October 4 and we are now awaiting the actual appropriation bill from the House of Commons.

The Standing Committee on Internal Economy, Budgets and Administration has also taken note of the adoption by the Senate on May 16, 2001, of recommendations of the second report of the Standing Joint Committee on Official Languages, entitled "The Broadcasting and Availability of the Debates and Proceedings of Parliament in Both Official Languages." Recommendation 7 stated that:

Parliament take the necessary steps to making subtitling available in both official languages when the proceedings of Senate Committees are televised.

When the monies for this new equipment are approved, the transcribed text of the proceedings will be "streamed" to provide a text in real-time that can be used as subtitling. Since this is a new service, the period from January to June 2002 will be treated as experimental. Hearing-impaired senators will be asked for their evaluation and an assessment will be made of the quality of our in-house subtitling in comparison with established standards. Training needs will have to be taken into consideration.

While our negotiations with CPAC are still ongoing, preliminary discussions with their President and General Manager indicate that CPAC is ready to take closed-captioned broadcasts from the Senate. I have instructed our officials to demand that the following paragraph be added to the new agreement:

...that CPAC commit to running closed-captioning broadcasts of Senate Committee proceedings when provided by the Senate.

I intend to report back to the Senate at a later time on the results of our experiments with closed-captioning, as well as the status of our negotiations with CPAC. I thank Senator Gauthier for raising this inquiry.

Hon. Senators: Hear, hear!

Hon. Joan Fraser: Would the honourable senator accept a question?

Senator Kroft: Yes, if it is non-technical.

Senator Fraser: It is not technical. I am sure we are all very impressed by what the honourable senator said about what the Internal Economy Committee is doing. It sounds terrific. I was not aware of that and I think we can all be very proud of it.

Has the honourable senator determined in his contacts with CPAC how many of the hundreds of hours of closed-captioned programming that they intend to produce in prime time will actually consist of parliamentary proceedings? It had originally been my understanding that the prime purpose of CPAC was to show the Parliament of Canada to the people of Canada. Whenever I turn it on in prime time, I get talking heads — not our talking heads, not politicians. I get journalists and the like, pontificating on the affairs of the day, just as one does on *Newsworld* or RDI or any of the other networks. Does the honourable senator know anything about this?

Senator Kroft: I thank the honourable senator for her question. Closed captioning is one aspect of a wider range of negotiations that are ongoing with CPAC. Two very positive things are happening from both sides of that negotiating table. First, CPAC is determined, quite impressively, to make their programming of public affairs more effective and more interesting and, therefore, probably to create a broader following among Canadians.

As part of our negotiations, we are pinning down both a discipline for ourselves and a commitment by them as to the number of hours that will be broadcast. The problem is that it is rather spasmodic now. We will end up in this agreement with a committed number of hours that we must provide to them.

They are just the conveyor of this service. The production of the programming is in our hands. We do this; we have control over which committees and other events we wish to cover. We will have an agreement that, optimistically, will meet both the needs of CPAC in providing interesting programming and the needs of the Senate.

Part of the problem is that we must commit enough hours so that they can schedule our work and not have to fill in with other programming that may not serve the Senate so well. That will be our time. We will have the job to fill it.

As far as the talking heads, CPAC has begun, and I think this will be expanded, to provide non-parliamentary programming whereby senators, for example, through an interview, a forum or a panel process, can relate to Canadians on matters of interest or preoccupations of the Senate and whatever we decide as programming.

We are now taking much more concern with the programming side of the business and they are concerned with delivering it.

• (1640)

Senator Fraser: In his continued dealings with CPAC, I would urge Senator Kroft to ask them to pay attention to the time of day at which they show not only our material but, for that matter, material from the other place. Last night, I turned to CPAC hoping to see something from one of the committees of either chamber that have been doing fascinating work this week, work of pronounced importance to Canadians in which there is high public interest, and I got talking heads. I used to be a talking head myself and have nothing against them. However, CPAC was not giving Canadians that kind of programming at a time when they might have been able to watch it.

Senator Kroft: We must be sensitive to the fact that some of the Senate material is rather racy for prime time.

On motion of Senator Corbin, debate adjourned.

ETHICS COUNSELLOR

MOTION TO CHANGE PROCESS OF SELECTION— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator DeWare:

That the Senate endorse and support the following policy from Liberal Red Book 1, which recommends the appointment of "an independent Ethics Counsellor to advise both public officials and lobbyists in the day-to-day application of the Code of Conduct for Public Officials. The Ethics Counsellor will be appointed after consultation with the leaders of all parties in the House of Commons and report directly to Parliament.";

And that this Resolution be sent to the Speaker of the House of Commons so that he may acquaint the House of Commons with this decision of the Senate.—(*Honourable Senator Di Nino*).

Hon. Consiglio Di Nino: Honourable senators, I rise with a brief intervention in support of Senator Oliver's motion made on April 3, 2001, regarding the appointment of an independent ethics counsellor. Over the past few years there have been a number of contentious incidents where a counsellor of this nature, responsible to Parliament and appointed in consultation with leaders of all parties, would have played a helpful and useful role in clearing the air.

Honourable senators, the reputation of Parliament and Parliamentarians can only be enhanced by referring contentious issues of conduct by a parliamentarian to someone seen as impartial and beyond the influence of government. At a time when public opinion of parliamentarians is at such an unfortunately low ebb, Senator Oliver's motion which, as he clearly stated, comes word for word from the Liberal Red Book, should be supported by everyone in this chamber.

To those honourable senators who were not here at the time of Senator Oliver's wise and cogent remarks or who were here and are desirous of refreshing their memories, his words can be found in the Hansard of April 3, 2001, at pages 562 and 563.

Honourable senators, I intend to vote in favour of this motion and I urge all honourable senators to join me.

On motion of Senator Kinsella, debate adjourned.

[Translation]

LA FÊTE NATIONALE DES ACADIENS ET ACADIENNES

DAY OF RECOGNITION—MOTION—DEBATE ADJOURNED

Hon. Rose-Marie Losier-Cool, pursuant to notice of October 4, 2001, moved:

That the Senate of Canada recommend that the Government of Canada recognize the date of August 15th as Fête nationale des Acadiens et Acadiennes, given the Acadian people's economic, cultural and social contribution to Canada.

She said: Honourable senators, the purpose of the motion I am pleased to bring forward today is to recommend to the Government of Canada that it recognize the date of August 15 as the Fête nationale des Acadiens et Acadiennes.

The purpose of this recognition on the part of the Government of Canada is to ensure that the Acadian people's economic, cultural and social contribution is promoted and appreciated within Canadian society.

My remarks today will focus on the economic contribution of the Acadian people within the Acadian community. But first, why a such a day and why on August 15? The fête nationale of August 15 is celebrated each year by thousands of Acadians in Acadia, Canada and wherever there are people of Acadian descent.

The first Acadian National Convention was held in Memramcook, New Brunswick, in 1881. The Société nationale l'Assomption, which is an organization dedicated to protecting the rights of Acadian society, was founded on that occasion. It still exists today under the name of the Société nationale de l'Acadie, and it remains a strong voice for Acadian communities from the Atlantic region.

The Acadian national conventions of the end of the 19th century debated a number of issues, such as the lack of education in French, the exodus of Acadians to anglophone urban centres in the Maritimes or in the U.S., and the lack of Acadian representation in political, religious and other structures. In all, 16 national conventions were held, the last one in Edmundston, in 1979.

It was in Memramcook, in 1881, that August 15 became the date of the fête nationale des Acadiens and that Our Lady of the Assumption was chosen as the patron saint. In 1955, during the celebrations marking the bicentennial of the deportation, the Archbishop of Moncton and a number of Acadian parishes from New Brunswick asked people to stand outside their homes at 6 p.m. on August 15, when all the bells would ring at the same time, to say a prayer and then to make noise with various objects, including pots and pans, musical instruments, horns, et cetera. This was the first organized tintamarre! Such tintamarres now take place in every corner of Acadia, from Saint-Quentin, in New Brunswick, to Saulnierville, in Nova Scotia, not to mention the most famous one, in Caraquet, New Brunswick, where over 20,000 people gather and march on the streets to celebrate August 15. Numerous cultural events are held on August 15, including plays, concerts, festivals, et cetera. A growing desire to develop a sense of pride and belonging to their language, culture and customs has spurred Acadians into setting up institutions that reflect their values.

Thus, in 1903, in Waltham, Massachusetts, the Société mutuelle l'Assomption, now known as Assumption Life, was founded by Acadians living in the United States. It was a fraternal society to rally all Acadians under one flag, to assist members who were ill, to provide financial support to the heirs of deceased members and to help preserve the religion, language and customs of Acadians. In 1913, the head office moved to Moncton, New Brunswick, in Canada. In 1968, the society was converted into a mutual life insurance company and, in 1972, the company built a large head office building in downtown Moncton.

• (1650)

Over the years the company continued to expand, extending its market and introducing new products specifically designed for its target market, the Maritimes, Quebec and New England.

However, the company never completely abandoned its first calling, which was to protect the economic and social welfare of the areas in which it did business. Through one of its subsidiaries, the Assumption Foundation, Assumption Life provided more than \$3 million in scholarships and assistance for teaching missions over the years. It also helped establish a Chair

in administration at l'Université de Moncton, and provides financial support for various social and cultural projects.

Today, Assumption Life is more than a mere life insurance company. It provides a wide range of financial services, including mortgage loans and investment funds.

The first French-language caisse populaire in New Brunswick was founded in Richibuctou in 1916. In 1946, Acadians undertook the steps that led to the founding of the Fédération des Caisses populaire acadiennes.

This important event was followed, over the years, by other cooperative and corporative organizations. Today total assets are in excess of \$1.6 billion, with 32 cooperatives and 77 caisses populaires, along with 11 service centres. The 200,000-plus members of Acadian caisses populaires have collectively shaped the Acadian and French-language communities of New Brunswick, working together to build a strong, prosperous and progressive Acadia.

Acadian entrepreneurship is particularly evident in Southeastern New Brunswick and in the Acadian region of Shédiac-Kent, where more than three-quarters of businesses are Acadian-owned. Sixty percent of these have fewer than five employees. There are so many cooperatives in the Évangéline region of P.E.I. that it has proclaimed itself the world co-op capital.

Economic Acadia comprises 7,088 entrepreneurs, more than 1,000 of whom are members of the Conseil économique du Nouveau-Brunswick, an association working to encourage the economic development of the francophone population. In addition to lobbying governments, this organization also acts as a voice for the French-language business community of New Brunswick and is one of the prime movers in the economic sector.

The Conseil provides economic development coordination workshops, and carries out studies and consultations, as well as providing its members with continuing education and a broad range of services.

The Acadia of the Maritime provinces, traditionally dependent on natural resources in forestry, fisheries and agriculture, is now turning to new information technologies, ecotourism and other promising sectors for the future.

New Brunswick's expertise in information technology was recognized worldwide in 1995 at the Sommet de la Francophonie in Cotonou, Benin. The heads of government of the Francophonie decided to establish the Centre international pour le développement de l'infrastructure en français in Edmundston, New Brunswick.

Tourism took an unprecedented leap forward in Atlantic Acadia in the 1990s. Acadian regions are in the process of catching up, making up for the lag that had developed in their tourism infrastructures. The recent growth in tourism has created thousands of jobs, both direct and indirect.

The Village historique acadien in Caraquet, the Pays de la Sagouine, the Bouctouche dunes, the Jardins de la République and the New Brunswick Botanical Gardens, the historic site of Grand-Pré, the historic fortress of Louisbourg in Nova Scotia, the Évangéline region of Prince Edward Island, to name but a few, are Acadian tourist sites attracting thousands of tourists annually and contributing to the economic development of the Atlantic provinces.

I would also mention some Acadian business successes which are still going strong. Pizza Delight, a company founded by two graduates of the Université de Moncton, Bernard Imbault and Roger Duchene, is generating annual revenues of over \$50 million and now has more than 150 franchises in the Atlantic provinces, Quebec and Ontario, in addition to having created over 2,000 jobs in Atlantic Canada alone.

Comeau Sea Foods Ltd., in Saulnierville, Nova Scotia, was founded in 1946 by two Acadians, Bernardin and Clarence Comeau. This Acadian company, which employs more than 1,000 people, has carved out a spot in the international market with its fresh and frozen seafoods.

These are just two examples among many of Acadian businesses which have distinguished themselves by their know-how and entrepreneurial spirit. By the way, the first hotel minibar was installed here in the Westin Hotel in 1981, the initiative of an Acadian by the name of Claude Savoie, from New Brunswick.

In recent decades, New Brunswick's francophone economic engine has developed largely because of young Acadians' access to post-secondary education. The Université de Moncton has played an important role in the training of young Acadian leaders. Incorporated in 1963, the university is now the largest entirely French-language university in Canada, outside Quebec.

Its three campuses, Edmundston, Moncton and Shippagan, have already educated 35,000 graduates and leaders. Last year, the university attracted over 6,000 students, including some 4,400 full-time students.

Some 160 programs are provided by over 425 professors in 13 faculties and schools. In the area of research, the university has about 30 centres, institutes and chairs. Each year, its researchers receive over \$3.2 million in research grants.

However, the greatest asset of l'Université de Moncton is the personalized teaching that a university of its size can provide to students. Not only does the close contact between professors and students improve exchanges, apprenticeship and performance, it also fuels a vibrant dynamism that is not found elsewhere.

The increasing number of achievements, successes and opportunities in Acadia have been taking place in a better

political and economical context since the arrival of the Honourable Louis J. Robichaud, an Acadian who was Premier of New Brunswick from 1960 to 1970.

[English]

Louis J. Robichaud organized a program of equal opportunity, redistributing income to the north of the province, proposing new economic development and institutional bilingual services to serve the province's francophone population. In September 1995, our honourable colleague the late Senator Jean-Maurice Simard wrote a letter to the editor of the *Telegraph Journal*, in which he stated:

The Liberal governments with Louis J. Robichaud at the helm made the Acadian community take great strides in the long battle that led us, as Acadians, toward an equal status as a francophone community.

The Progressive Conservative Party came into power in 1970 under Richard Hatfield and continued the programs implemented by the Robichaud governments.

[Translation]

It was the Robichaud government in 1969 that passed the Official Languages of New Brunswick Act, which made New Brunswick the only officially bilingual province in Canada, a distinction it holds to this day. I should like to point out that the Robichaud government was heavily influenced by the Government of Canada, which also passed the Official Languages Act in 1969.

In closing, honourable senators, the purpose of my speech was to provide you with an overview of the economic contributions made by the Acadian community in Canada. I hope that it will give you a better appreciation of the significant contributions that Acadians have made to Canadian society.

Honourable senators, this contribution began some 400 years ago. Our history has made us all the greater. It has helped shape the values of tolerance, generosity, and openness towards the world that characterize Canadians. Are these not good reasons to celebrate August 15?

Hon. Senators: Hear, hear!

Hon. Noël Kinsella (Deputy Leader of the Opposition): Honourable senators, I wish to congratulate Senator Losier-Cool for moving the motion. My grandmother, Lucie Bernard, was one of the members of the eight families from Malpèques, on l'Île de St-Jean, which is now Prince Edward Island.

On motion of Senator Kinsella, for Senator Comeau, debate adjourned.

ADJOURNMENT

Leave having been given to revert to Notice of Motions:

The Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, October 30, 2001, at 2 p.m.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, October 30, 2001, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(1st Session, 37th Parliament)
Thursday, October 25, 2001

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act respecting marine liability, and to validate certain by-laws and regulations	01/01/31	01/01/31	—	—	—	01/01/31	01/05/10	6/01
S-3	An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts	01/01/31	01/02/07	Transport and Communications	01/05/03 amended 01/05/09	3	01/05/10	01/06/14	13/01
S-4	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	01/01/31	01/02/07	Legal and Constitutional Affairs	01/03/29	0 + 1 at 3rd	01/04/26	01/05/10	4/01
S-5	An Act to amend the Blue Water Bridge Authority Act	01/01/31	01/02/07	Transport and Communications	01/03/01	0	01/03/12	01/05/10	3/01
S-11	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	01/02/06	01/02/21	Banking, Trade and Commerce	01/04/05	17 + 1 at 3rd	01/05/02 Senate agreed to Commons amendments 01/06/12	01/06/14	14/01
S-16	An Act to amend the Proceeds of Crime (Money Laundering) Act	01/02/20	01/03/01	Banking, Trade and Commerce	01/03/22	0	01/04/04	01/06/14	12/01
S-17	An Act to amend the Patent Act	01/02/20	01/03/12	Banking, Trade and Commerce	01/04/05	0	01/05/01	01/06/14	10/01
S-23	An Act to amend the Customs Act and to make related amendments to other Acts	01/03/22	01/05/03	National Finance	01/05/17	11 + 2 at 3rd (01/06/06)	01/06/07	01/10/25	25/01
S-24	An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence	01/03/27	01/04/05	Aboriginal Peoples	01/05/10	0	01/05/15	01/06/14	8/01
S-31	An Act to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	01/09/19	01/10/17	Banking, Trade and Commerce	01/10/25	0			

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-33	An Act to amend the Carriage by Air Act	01/09/25	01/10/16	Transport and Communications					
S-34	An Act respecting royal assent to bills passed by the Houses of Parliament	01/10/02	01/10/04	Rules, Procedures and the Rights of Parliament					

**GOVERNMENT BILLS
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Employment Insurance Act and the Employment Insurance (Fishing) Regulations	01/04/05	01/04/24	Social Affairs, Science and Technology	01/05/03	0	01/05/09	01/05/10	5/01
C-3	An Act to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act	01/05/02	01/05/10	Energy, the Environment and Natural Resources	01/06/06	0	01/06/12	01/06/14	18/01
C-4	An Act to establish a foundation to fund sustainable development technology	01/04/24	01/05/02	Energy, the Environment and Natural Resources	01/06/06	0	01/06/14	01/06/14	23/01
C-6	An Act to amend the International Boundary Waters Treaty Act	01/10/03							
C-7	An Act in respect of criminal justice for young persons and to amend and repeat other Acts	01/05/30	01/09/25	Legal and Constitutional Affairs					
C-8	An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions	01/04/03	01/04/25	Banking, Trade and Commerce	01/05/31	0	01/06/06	01/06/14	9/01
C-9	An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act	01/05/02	01/05/09	Legal and Constitutional Affairs	01/06/07	0	01/06/13	01/06/14	21/01
C-11	An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger	01/06/14	01/09/27	Social Affairs, Science and Technology	01/10/23	0			
C-12	An Act to amend the Judges Act and to amend another Act in consequence	01/04/24	01/05/09	Legal and Constitutional Affairs	01/05/17	0	01/05/29	01/06/14	7/01
C-13	An Act to amend the Excise Tax Act	01/04/24	01/05/01	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	15/01
C-14	An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts	01/05/15	01/05/30	Transport and Communications	01/10/18	0			
C-15A	An Act to amend the Criminal Code and to amend other Acts	01/10/23							
C-17	An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act	01/05/15	01/05/30	National Finance	01/06/07	0	01/06/11	01/06/14	11/01
C-18	An Act to amend the Federal-Provincial Fiscal Arrangements Act	01/05/09	01/05/31	National Finance	01/06/12	0	01/06/12	01/06/14	19/01
C-20	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	1/01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	2/01
C-22	An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act	01/05/15	01/05/30	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	17/01
C-24	An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts	01/06/14	01/09/26	Legal and Constitutional Affairs					
C-25	An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts	01/06/12	01/06/12	Agriculture and Forestry	01/06/13	0	01/06/14	01/06/14	22/01
C-26	An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco	01/05/15	01/05/17	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	16/01
C-28	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	01/06/11	01/06/12	—	—	—	01/06/13	01/06/14	20/01
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/06/13	01/06/14	—	—	—	01/06/14	01/06/14	24/01

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
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SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5	referred back to Committee 01/10/23		
S-7	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	01/01/31	01/02/07	Transport and Communications	01/06/05	0	01/06/07		
S-8	An Act to maintain the principles relating to the role of the Senate as established by the Constitution of Canada (Sen. Joyal, P.C.)	01/01/31	01/05/09	Rules, Procedures and the Rights of Parliament					
S-9	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	01/01/31							
S-10	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	01/01/31	01/02/08	—	—	—	01/02/08		

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-12	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	01/02/07	01/03/27	Social Affairs, Science and Technology					
S-13	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	01/02/07	01/05/02	Rules, Procedures and the Rights of Parliament (Committee discharged from consideration—Bill withdrawn 01/10/02)					
S-14	An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	01/02/07	01/02/20	Social Affairs, Science and Technology	01/04/26	0	01/05/01		
S-15	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	01/02/07	01/03/01	Energy, the Environment and Natural Resources	01/05/10	0	01/05/15	Bill withdrawn pursuant to Commons Speaker's Ruling 01/06/12	
S-18	An Act to Amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	01/02/20	01/04/24	Social Affairs, Science and Technology (withdrawn) 01/05/10					
S-19	An Act to amend the Canada Transportation Act (Sen. Kirby)	01/02/21	01/05/17	Transport and Communications					
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	01/03/12							
S-21	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	01/03/13		Subject-matter 01/04/26					
S-22	An Act to provide for the recognition of the <i>Canadien</i> Horse as the national horse of Canada (Sen. Murray, P.C.)	01/03/21	01/06/11	Social Affairs, Science and Technology					
S-26	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	01/05/02	01/06/05	Agriculture and Forestry					
S-29	An Act to amend the Broadcasting Act (review of decisions) (Sen. Gauthier)	01/06/11		Transport and Communications					
S-30	An Act to amend the Canada Corporations Act (corporations sole) (Sen. Atkins)	01/06/12							
S-32	An Act to amend the Official Languages Act (fostering of English and French) (Sen. Gauthier)	01/09/19							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (Sen. Kroft)	01/03/29	01/04/04	Legal and Constitutional Affairs	01/04/26	1	01/05/02	01/06/14	
S-27	An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	
S-28	An Act to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	

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(HANSARD)

Tuesday, October 30, 2001

THE HONOURABLE DAN HAYS
SPEAKER

NOV 30 2001

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THE SENATE

Tuesday, October 30, 2001

The Senate met at 2:00 p.m., the Speaker in the Chair.

[English]

Prayers.

THE HONOURABLE EDWARD M. LAWSON

EXPRESSION OF GRATITUDE FOR GET WELL WISHES

Hon. Edward M. Lawson: Honourable senators, I wish to take a brief moment to thank you for your kindness and courtesy in sending me flowers during my recent visit to the hospital in Seattle, Washington, where I was serving as a living laboratory experiment for Senator Kirby and his committee studying the difference between private and public medical coverage. I thank the government leadership for their kindness, Senator Lynch-Staunton and all the other senators who sent notes, cards, e-mails and best wishes. I can tell you from firsthand experience that it does help in the healing process to know that you are part of an institution with so many genuine, caring people. Thank you all.

[Translation]

SENATORS' STATEMENTS

THE LATE JEAN-MARC OUELLET

TRIBUTES

Hon. Richard H. Kroft: Honourable senators, I regret to announce the death of Jean-Marc Ouellet.

[English]

Mr. Ouellet joined the Senate some 10 years ago and was one of the Senate's three bus drivers who serve us all so well. Last Friday began as a usual workday for Jean-Marc. He arrived on site early, as was his practice, but before he was to begin his run, one which was always punctuated with warm smiles and good humour, he collapsed. Resuscitation attempts by members of the RCMP and our own security personnel were unfortunately unsuccessful. Jean-Marc Ouellet passed away at 7:10 a.m. on October 26. His funeral took place this morning at 11:30, with family, senators, friends and Senate colleagues in attendance. He will be missed by all.

[Translation]

I invite you to join with me in extending our most sincere condolences to his family. Our thoughts and prayers go out especially to his wife, Joyce, and to his children, Lynn and Michael.

[English]

Our thoughts and prayers go out especially to his wife, Joyce, who works with the Senate Maintenance Service, to his daughter, Lynn Ouellet, who works with the Senate Protective Service, and to his son, Michael, and all their families.

[Translation]

Hon. Marie-P. Poulin: Honourable senators, last week the Senate lost one of its devoted employees with the passing of Jean-Marc Ouellet. This morning, the diversity of those attending his funeral mass reflected the key values of the man: his respect for others, his generosity, his jovial nature, his community involvement. Above all, however, I shall remember him for his great affection for his family, his wife, Joyce, his daughter, Lynn, his son, Michael, and grandson, Maxime. All the senators faithfully turned over to Jean-Marc all those little pins we were given wherever we went in Canada or elsewhere in the world. In paying tribute to Jean-Marc Ouellet today, I am paying tribute to all the staff of the Senate of Canada.

ROUTINE PROCEEDINGS

CLERK OF THE SENATE

ANNUAL ACCOUNTS TABLED

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that, pursuant to rule 133, the Clerk of the Senate has tabled a detailed statement of his receipts and expenditures for the fiscal year terminating March 31, 2001.

YUKON NORTHERN AFFAIRS PROGRAM DEVOLUTION TRANSFER AGREEMENT

TABLED

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table in this house, in both official languages, the Yukon Northern Affairs Program Devolution Transfer Agreement reached by the Government of Canada and the Government of the Yukon.

[English]

STUDY ON ROLE OF GOVERNMENT IN FINANCING DEFERRED MAINTENANCE COSTS IN POST-SECONDARY INSTITUTIONS

REPORT OF NATIONAL FINANCE COMMITTEE TABLED

Hon. Lowell Murray: Honourable senators, I have the honour to table the ninth report of the Standing Senate Committee on National Finance concerning the role of the government in the financing of deferred maintenance costs in Canada's post-secondary institutions.

Pursuant to rule 97(3), I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

[Translation]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

ANNUAL ACCOUNTS OF CLERK OF THE SENATE REFERRED TO COMMITTEE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I move, with leave of the Senate and notwithstanding rule 58(1)(f), that the Clerk's accounts be referred to the Standing Committee on Internal Economy, Budgets and Administration.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

• (1410)

ADJOURNMENT

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That, when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, October 31, 2001, at 1:30 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

TRANSPORTATION APPEAL TRIBUNAL OF CANADA BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-34, to establish the Transportation Appeal Tribunal of Canada and to make consequential amendments to other Acts.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

[Senator Murray]

On motion of Senator Gill, bill placed on the Orders of the Day for second reading two days hence.

[English]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before moving to Question Period, I wish to draw to the attention of honourable senators the presence in the north gallery of a group of people who are participating in the Senate Partnership Day. On behalf of all senators, I welcome you to the Senate of Canada.

QUESTION PERIOD

HEALTH

APPROVAL OF CIPRO AS ANTI-ANTHRAX MEDICATION

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is to the Leader of the Government in the Senate. In light of the recent statements of the United States health authorities, including a warning stating that the safety and effectiveness of Cipro in pediatric patients, adolescents — that is, less than 18 years of age — pregnant women and lactating women have not been established as effective in counteracting anthrax, why did the Government of Canada take the decision to stockpile Cipro as the antidote of choice to treat anthrax in children?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the Government of Canada is not stockpiling Cipro to treat anthrax in children. It is stockpiling Cipro, or ciprofloxacin, which is its true name, as well as doxycycline, amixacillin, tetracycline and penicillin, which is the whole range of antibiotics, because it has been documented over a number of years that some antibiotics work in some circumstances for some patients and do not necessarily work for all patients.

For example, Senator Kinsella made a reference to a lactating woman, a woman who is nursing. In her particular case, Cipro would not be the drug recommended. One of the other drugs that has been stockpiled by Health Canada would be used for that particular case.

STOCKPILING OF ANTI-ANTHRAX MEDICATIONS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Could the minister provide to the house the list of drugs that Health Canada is stockpiling to deal with this matter?

Hon. Sharon Carstairs (Leader of the Government): There are five drugs, and I could give that information to the honourable senator this afternoon.

The first drug is Cipro. The second drug is doxycycline. The third is amixacillin. The fourth is tetracycline and the fifth is penicillin. These have been identified as the best drugs, or antibiotics, that work the best over an entire range of individual cases.

Senator Kinsella: Could the minister also provide the house with the procurement process that is being used? Is this being done through a single-source method, as was apparently done with the ordering of Cipro, notwithstanding that the government broke the law and decided to go to one company that did not hold the patent?

Senator Carstairs: Honourable senators, these drugs are being purchased from the manufacturers of the variety of drugs. As the honourable senator is undoubtedly aware, some of these drugs are no longer covered by patent.

• (1420)

PURCHASE OF APOTEX ANTI-ANTHRAX DRUG

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, there are two large generic drug companies in Canada and numerous smaller ones with the sophistication to manufacture Cipro. Could the Honourable Leader of the Government in the Senate inform this house what criteria the Government of Canada used in its selection of Apotex to manufacture Cipro, knowing that in making that selection, it was breaking the law on patents.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as I indicated in response to an earlier question, it was well known that Apotex had the capacity to make Cipro, and therefore, the government contacted them in respect of this need.

PRIVY COUNCIL OFFICE

EFFORTS TO INCREASE LEVEL OF
SECURITY AND INTELLIGENCE

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. Last night, Mr. Richard Fadden, Deputy Clerk and Security and Intelligence Coordinator of the Privy Council, stated that if the current pace on security and intelligence matters continued until Christmas, the Canadian effort would be unsustainable.

What will the government do about sustaining the Privy Council's ability to coordinate security and intelligence matters past Christmas in what is looking like a long war on terrorism?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. I believe that Mr. Fadden was referring to the tremendous pressure on the staff of the Privy Council Office, not just in respect of the provision of security, but also in respect of the legislative work made necessary by the events of September 11. I understand that they have been trying to put plans in place for post-Christmas.

Senator Forrestall: Honourable senators, Mr. Fadden also stated that the situation is worse on the front lines. My question for the Leader of the Government in the Senate is: What steps is the government taking to increase the number of CSIS agents and customs, immigration, and RCMP officers available to the war on terror?

In respect of the first question, I had occasion to ask Mr. Fadden about the numbers of people who are seized with this question in the Privy Council. Mr. Fadden responded with numbers. However, he did not indicate the number of people available to prepare critical analyses for the government.

Could the government shed any light on whether there are plans to increase the number of analysts in the Privy Council Office?

Senator Carstairs: I thank the honourable senator for his question in respect of the number of staff persons available for critical analyses. I do not have that information. However, an additional \$280 million has been made available to provide extra resource help for the departments that the honourable senator indicated — CSIS, Customs, Immigration, and the RCMP.

Senator Forrestall: I had hoped that the Leader of the Government in the Senate could respond to the obvious. Are special recruitment programs taking place outside of government, and particularly in the university field, to secure a greater number of analysts in an effort to keep pace with the flood of work?

Senator Carstairs: Honourable senators, an ongoing recruitment program within the military has resulted in significant increases. However, in respect of specific recruitment programs for other departments that have received additional funding, I do not have up-to-date information for the honourable senator. I will endeavour to obtain that for him.

Senator Forrestall: I thank the Leader of the Government in the Senate for that.

SECURITY AND INTELLIGENCE

POTENTIAL TERRORIST TARGETS

Hon. Terry Stratton: Honourable senators, my question is for the Leader of the Government in the Senate. Last night, Mr. Fadden also told the Standing Senate Committee on Defence and Security that Parliament Hill topped the Canadian list of potential targets. Would the honourable senator shed light on the threat to Parliament Hill and the threat to Canadian facilities in general?

I am particularly concerned in light of the American announcement that there is an additional threat of attack by terrorists on the United States. When we hear such announcements, naturally we think of the potential threats to Canada. We are not far from New York City and it would seem to be easy to drive something into the Peace Tower. Could the honourable senator shed some light on that issue?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question because it is a serious one. The United States announced last night a top security alert because of a potential attack, possibly this week. The announcement has made it clear that we need to have all of our security on alert as well.

On September 11 there was a great deal of heightened fear that the Parliament buildings would be a potential target of attack. Fortunately, that did not transpire. All honourable senators are aware that security has been heightened on the Hill since that date, both with the inspection of cars belonging to senators, to members of the House of Commons and to other individuals who have passes. All other automobiles have been kept off the Hill. When taxis and trucks drive onto the Hill, they are given security checks in ways that have not happened before.

Honourable senators, precautions have been put in place on the Hill and they are necessary under the circumstances.

TERRORISTS IN NATIONAL CAPITAL REGION

Hon. Terry Stratton: Honourable senators, could the Honourable Leader of the Government in the Senate tell us if there are six individuals resident in Ottawa that may pose a threat to Parliament? If so, are they believed to be connected to al-Qaeda or another terrorist organization? It is my understanding that Mr. Fadden said to the Defence Committee last night that they are trying to obtain more information on those six individuals and the potential threat they pose to parliamentary security.

Senator Carstairs: Honourable senators, I have no knowledge of six individuals in Ottawa, or the surrounding area, that may pose a security threat. It is my understanding that the RCMP is being most vigorous in working closely with CSIS to determine which individuals across Canada might pose a security threat. Those who do pose such a security threat, provided circumstances justified, have been arrested.

TRANSPORT

AIR CANADA—POSSIBLE FINANCIAL AID PACKAGE— EFFECT ON COMPETITION

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate, and it relates to the federal government's negotiations for additional financial aid for Air Canada. Honourable senators will recall that, following last week's offer of \$75 million in loan guarantees for Canada 3000, media reports suggested that the federal government is now negotiating with Air Canada for a similar, proportional aid package.

Would the Leader of the Government in the Senate elaborate on the terms and conditions that Air Canada must meet before additional financial aid will be made available?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. Honourable senators, it is premature to say that there are negotiations at the present time between Air Canada and the Government of Canada. Canada 3000 came forward with a restructuring initiative. They indicated that, because of their commitments

over the Christmas season, they were assured of a certain level of revenue. Canada 3000 indicated that their cash shortage was short-term and, therefore, a loan guarantee was made available to them.

• (1430)

In terms of Air Canada, the government has indicated that they would be willing to hear from Air Canada if the company was serious about its financial problems and was prepared to lay out a business plan, as Canada 3000 has done.

Senator Oliver: Honourable senators, in her answer to the first question, did the minister say with respect to an additional package for Air Canada that negotiations are ongoing now?

I have a supplementary question. Honourable senators would know that the President of Canada 3000 criticized Air Canada for trying to drive smaller competitors out of business with its own Tango cut-rate service, as reported in the *National Post* on October 27, 2001. Given the concerns expressed by Canada 3000 regarding Air Canada's low-cost Tango service and considering the prospect of additional financial aid for Air Canada, what is the government's response to the allegation that its air carrier aid policy is running at cross purposes in terms of achieving the objectives of preserving competition among our air carriers?

Senator Carstairs: Honourable senators, the honourable senator has answered his own question. He has spoken the magic word, namely, "competition." The government is concerned that competition continue to exist in the airlines in this country. That is why Mr. Collenette has said that Air Canada is certainly welcome to apply for a similar financial package to that granted to Canada 3000. When I say "similar," I mean appropriate to the size of the airlines. To my knowledge, no specific negotiation is occurring at this moment between Air Canada and the Government of Canada.

FOREIGN AFFAIRS

AFGHANISTAN—REQUEST TO HALT BOMBING TO PROVIDE AID TO REFUGEES

Hon. Douglas Roche: Honourable senators, I have a question for the Leader of the Government in the Senate. Today, a hospital in Kabul suffered the effects of bombing, and the total number of civilians in Afghanistan killed as a result of bombing continues to grow. In fact, the bombing campaign and the breakdown of social order inside Afghanistan have thrown humanitarian delivery systems into turmoil. The United Nations now says that more than 1.5 million people are at risk of starvation this winter. Oxfam has called for a halt so that humanitarian aid can reach desperate people.

In the name of many Canadians who approached me over the weekend, I ask, once again: Will the government urge the coalition to halt the bombing in order to get the 16,000 metric tonnes of food needed per month into Afghanistan?

Hon. Sharon Carstairs (Leader of the Government):

Honourable senators, the question that Senator Roche asked is important not only for Canadians but also for the Afghani people. It is also important to both the Government of Canada and the Government of the United States. A very senior senator in the United States has raised concerns about the kind of bombing that is occurring. Apparently, they are flying at a level that is too high and they are not necessarily hitting the targets that they want to hit.

The humanitarian delivery system is, as the honourable senator said, in some chaos. Part of that is because Afghanistan is in some chaos. At the present time, it is difficult to even know where the Afghani people are. There have been reports that cities like Kabul are virtually deserted and people are moving primarily towards the borders of Pakistan, although I would assume that they are moving toward other borders, too. Pakistan is where most of the food aid is being provided at the present time.

Honourable senators, I do not think that the coalition will stop bombing at the present time, but I can assure the honourable senator that the humanitarian question and the need for aid is still very much on the table.

Senator Roche: Honourable senators, I thank the Leader of the Government in the Senate for her answer. I sense that she shares our concerns. We are not alone by any means. Many Canadians have a growing sense of concern. However, this is not a question of what we think the coalition will do. The question is: Will the Government of Canada go forward in urging the coalition to stop the bombing? The Canadian government has stated that, in our struggle against terrorism, we must be careful not to undercut the larger global struggle for the promotion and protection of human rights. How does the bombing of Afghanistan, which is bringing catastrophe to the people there, protect their human rights?

Senator Carstairs: Honourable senators, let me indicate to the honourable senator, as I have in the past, that the number of people in Afghanistan who may well suffer from starvation this winter is about 1.5 million. We do not know how many of those people will starve as a direct result of the bombing. Part of the tragedy of Afghanistan is that they are in the third year of a drought. There was no food there in the first place. Since the outbreak of hostilities how we can deliver that food has only become much more complex. That is why the Canadian government has given \$16 million in aid to this point in time. That amount was raised from \$1 million to \$6 million and now to \$16 million, and it still remains open. Quite frankly, however, I cannot tell honourable senators today that the Canadian government will urge the coalition to stop dropping the bombs.

AID FOR AFGHANI REFUGEES IN PAKISTAN AND IRAN

Hon. Marcel Prud'homme: Honourable senators, what assistance, if any, is the Canadian government, either by itself or with the world community, ready to offer to Pakistan and Iran, who must deal with millions of people who are already in

refugee camps inside their borders and for whom it seems we have not been too concerned until recently.

I visited the refugee camps in Pakistan. I did not see much support and offer of assistance by the world community. President Musharraf, who was then General Musharraf — and I met with him for four hours — must deal with this crisis alone. Yet there is not much we can do. Even if we were of the opinion that the United States should stop, I do not think they would listen. However, winter will stop them. People do not know what Afghanistan is like, but winter will stop a lot of the action that is going on at the moment. Winter is coming fast.

What action, if any, has the Government of Canada taken to show leadership in the name of humanity not only with regard to the millions of refugees who are about to try to enter into Iran and Pakistan but also the millions of people who have been forgotten for the last two or three years? This is not partisanship but a clear explanation of the facts that exist over there.

Hon. Sharon Carstairs (Leader of the Government):

Honourable senators, I thank the Honourable Senator Prud'homme for that question. I am sure that he knows that much of the \$16 million in aid that is going to Afghanistan is technically being used in Pakistan because that is where the refugees are primarily located. The refugees are either on the border or just across the border, and they are not being treated any differently, whether they are on the Pakistani side or on the Afghani side.

• (1440)

However, having said that, Canada provides approximately \$21 million per year in Pakistan towards poverty reduction. This aid is provided through a variety of programs working directly with organizations like the Aga Khan Foundation and the Aga Khan University, as well as the World Conservation Union and the Democratic Governance Program. Up to now our contribution has been approximately \$21 million, and poverty reduction is the focus of the programs.

Senator Prud'homme: Honourable senators, \$21 million for 5 million or 6 million refugees is a good effort, but I would kindly ask the Leader of the Government in the Senate to put to the government that the world is in extreme need of leadership. Canada still has — and I want the minister to take this very seriously — much goodwill in Pakistan and Iran. I just returned from Libya, and I can tell senators that when someone says they are from Canada, the tone and the atmosphere changes immediately. The \$21-million figure is not peanuts, but there is also the question of international leadership.

Does the Canadian government envisage taking any action at the United Nations to really tackle what will become an immensely frustrating situation? Canada should once again show extraordinary goodwill because the name "Canada" still means an open door. I do not know for how long, but Canada's name is still synonymous with a display of immense leadership during times of great difficulty in the world, as described by Senator Roche.

Senator Carstairs: Honourable senators, I want Senator Prud'homme to understand that \$16 million is going to refugees and an additional \$21 million to poverty reduction programs. I will make sure that my cabinet colleagues are aware of his passionate comments this afternoon.

FINANCE

PROVISION OF FIVE-YEAR FISCAL FRAMEWORK IN UPCOMING BUDGET

Hon. W. David Angus: Honourable senators, the Minister of Finance has promised a full accounting to all Canadians in his December budget, including some advice on how revenues have been affected and on how we will be able to afford those important, but previously unanticipated, necessary military, security and other initiatives needed following the events of September 11. However, with the notable exception of the good taxation news in last October's fiscal and economic update, the minister has a sad history of only providing short-term fiscal forecasts. The events of September 11, combined with the economic slowdown that was already well underway at the time, plus rumoured threats of an impending energy crisis within two years, will have a profound effect on the government's revenues and on its spending priorities, not just for the balance of this fiscal year but for several years to come. Obviously, this will not be a good news budget.

Can the Leader of the Government in the Senate please assure honourable senators that the budget, scheduled to be delivered in early December, will provide the five-year fiscal framework needed to assure Canada's financial markets that the government in fact has in place a proper plan that is sustainable, not just in the short term but to the medium and long term as well?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I can certainly make the Minister of Finance aware of the honourable senator's desire for a five-year budget. However, if we learned anything from September 11, it should have been that long-term forecasts do not have a great deal of meaning.

We know that our own budgetary requirements have increased dramatically on issues like defence and security since September 11, the tragedy now referred to in many places — and I must say it took me a moment to figure out what it was — as 9/11. The reality of the budget that will come down in early December is that it will be an accurate forecast, as best the Minister of Finance can provide, bearing in mind that none of us know how long this war will last and none of us know the entire cost because of our inability to forecast at length.

Senator Angus: Honourable senators, even with the surplus shrinking and maybe even turning into a deficit by next year, we heard recently that the Minister of Industry and the Minister of Human Resources Development are asking for some \$6 million to spend on a host of extravagant new initiatives. In spite of falling revenues and the new security and military needs brought on by the events of September 11, or 9/11, does our government believe that it is still business as usual when it comes to these and other new spending projects? If the government is to undertake such major, new, multi-year spending schemes, does it not owe

Canadians an explanation of how it will pay for them, not only for this year and next but for the full five-year cycle, as is the case in New Zealand, Australia and other Commonwealth countries?

Senator Carstairs: Honourable senators, one thing is clear: The Minister of Finance is the individual at the cabinet table who will present the budget. Yes, there are other ministers out there with their wish lists. Frankly, if I were in a situation where I had a line department to administer, I would probably be out there with my wish list, too. I am not in that situation, so I have no wish list, other than to ensure, of course, that the Senate is adequately resourced.

In terms of the final decisions, as honourable senators are well aware, those decisions will be made by the Minister of Finance and the Prime Minister of Canada.

[Translation]

DELAYED ANSWER TO ORAL QUESTION

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable Senators, I have the honour to table a response to a question raised in the Senate on October 16, 2001, by Senator Tkachuk, regarding Afghanistan and, in particular, an official statement condemning treatment of women.

FOREIGN AFFAIRS

AFGHANISTAN—OFFICIAL STATEMENT CONDEMNING TREATMENT OF WOMEN

(Response to question raised by Hon. David Tkachuk on October 16, 2001)

The Government of Canada is profoundly concerned about the situation in Afghanistan. We unreservedly condemn the gross violations of human rights and fundamental freedoms, especially the systemic discrimination against women and girls in Afghanistan.

Canada has not had diplomatic relations with any Afghan regime since 1979; our direct influence on Afghanistan is therefore limited. Nevertheless, Canadian officials take any opportunity to remind Taliban authorities of their human rights and humanitarian obligations under international law.

Canada is committed to advancing gender equality and women's human rights through our international activities. Canada was instrumental in the creation of the mandate of the Special Rapporteur on violence against women of the United Nations (UN) Commission on Human Rights (CHR) in 1994. The Special Rapporteur was appointed to seek and receive information on violence against women, to recommend measures to eliminate violence against women and its causes, and to remedy its consequences. In September 1999, the Special Rapporteur visited Pakistan and Afghanistan to study the issue of violence against Afghan women and in her report issued a number of recommendations for the international community.

Canada has delivered annually official statements at the CHR and during Third Committee proceedings of the UN General Assembly in which we strongly criticize the Taliban for their treatment of women. Last year's statements are attached below for your information.

In addition to leading on the annual resolution at the CHR on the *Elimination of violence against women*, Canada also cosponsors resolutions which deal with the situation of women in Afghanistan, including at the UN Commission on the Status of Women, the UN General Assembly and the UN Security Council. For example, Canada supports UN Security Council Resolution 1267, which reiterates the Council's deep concern about the continuing violations of international humanitarian law and of human rights, particularly discrimination against women and girls. On November 14, 1999, Canada implemented sanctions against the Taliban consistent with Resolution 1267.

In April 2000, the UN Security Council, under the Canadian Presidency, issued a Presidential Statement whereby, amongst other things, the Council expressed its grave concern at the worsening human rights situation in Afghanistan, including the continuing discrimination against women and girls, and called upon the Taliban to end such practices and adhere to international norms and standards. The Council condemned the violations of the human rights of women and girls and noted its deep concern with respect to the continued restrictions on women's and girls' access to health care, education and employment outside the home as well as restrictions on their freedom of movement and freedom from intimidation, harassment and violence. While the Council welcomed recent reports of modest progress regarding the access of women and girls to certain services, it noted that these incremental improvements still fell far short of the minimum expectations of the international community.

Attached for your information are recent Canadian statements concerning human rights in Afghanistan:

1) Statement delivered in New York November 2, 2000 to the Third Committee of the United Nations General Assembly. and

2) Statement delivered in spring 2001 at the UN CHR.

(For text of statements, see appendix, p. 1543.)

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, as regards government orders on the Order Paper, we would like to move on to consideration of Bill C-11, now Item No. 1, Bill S-31, Item No. 3, Bill C-6, Item No. 4, Bill C-14, Item No. 2, before going

back to Bill C-15A, Item No. 5 on the Order Paper. We will follow that order.

[English]

IMMIGRATION AND REFUGEE PROTECTION BILL

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cordy, seconded by the Honourable Senator LaPierre, for the third reading of Bill C-11, respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger.

Hon. Douglas Roche: Honourable senators, I start from the premise that Canada needs immigrants and has a duty to take in refugees. In the past decade, Canada has taken in 2.4 million immigrants and resettled more than 140,000 refugees from all continents. We have welcomed Kosovars fleeing the Balkans, Vietnamese boat people following reunification, and Hungarians after the 1956 uprising. In fact, our country operates the world's second-largest refugee settlement program — a concrete manifestation of international burden sharing.

Honourable senators, the laws concerning immigration are complex. We do not overhaul them often. The last time was in 1976. Bill C-11 attempts to ensure that Canada's immigration and refugee protection system is able to respond to new challenges and opportunities. This overhaul may not be done again for another 25 years. It is important to get it right.

• (1450)

The challenge inherent in Bill C-11 is to respond to refugee pressures and security concerns about terrorists without closing the door on persons in need of protection. There are more persons in need of protection in the world today than ever before.

Though we must ensure that Canada's borders are secure against those who constitute security threats and are potential terrorists, this bill is not proposed legislation to combat terrorism. However, because of the tragic events of September 11, the government suddenly decided to rush this bill through the Senate in the guise of anti-terrorist legislation. Even though Bill C-11 was passed by House of Commons months before the events of September 11, it is suddenly projected to be part of the government's response to the events of September 11. The government put its foot on the accelerator to get the bill through the Senate fast, thereby denying the Standing Senate Committee on Social Affairs, Science and Technology sufficient time to study the bill's many complexities.

Bill C-11 does not have it right. It cuts off the appeal process. Its statutory bars cast too wide a net. The rights of refugees are not clarified. Terrorism is not even defined. We had witnesses who excoriated the bill for its weaknesses.

Seeing the improvements needed in the bill, and recognizing the government did not want amendments that would have sent the bill back to the House of Commons, resulting in further delay, the committee unanimously made a wise choice and appended to its report a 13-page appendix called "Observations." Rather than splitting over amendments, the committee stayed together. Thus, the consensus of 12 members gives added weight to the observations. The many witnesses who came to the Senate committee to improve the bill should see their work reflected in the observations.

The committee wants these observations taken seriously by the Minister of Citizenship and Immigration. I have served notice that I will move in the committee that the minister respond in writing six months after Bill C-11 is proclaimed.

The observations state, first, that the fundamental problem in Canada's immigration and refugee program is not the lack of new legislation but, rather, the lack of resources. Many witnesses stated that two rounds of downsizing in the past decade, the same decade that saw immigration and refugees increase, reduced immigration staff by almost half, including front line immigration officers.

The Immigration and Refugee Board now has a backlog of 34,000 refugee claims that have yet to be heard. The board has 186 decision makers at present and it needs at least 250. The current 103 refugee claims officers need to be augmented by another 50 or 60. It cannot be emphasized enough that what is needed in the present situation is more personnel, better enforcement, additional training programs and improved technology.

It was shocking to learn from the national president of the Customs Excise union that Customs officers in Victoria do not have a single computer and are operating out of a 35-year-old trailer with 30-year-old clipboards. Front line officers insist that they need more training.

Bill C-11 proposes to require that our immigration officers refer claims within 72 hours, a process that can currently take months. This presents an already understaffed and under funded system with an impossible situation. We must also deal with the reality that there are tens of thousands of claimants who have been ordered deported, but who continue to live within our borders. These are questions of resources, not legislation.

The observations also criticize the inadequate manner in which regulations, which we have yet to see, will be reviewed by the parliamentary process. Greater scrutiny of the regulations is essential, as these regulations will play an important role in implementing immigration and refugee laws fairly.

Many witnesses expressed concern at the absence in Bill C-11 of the explicit definition of a "terrorist," and the fear that an officer could make too subjective a determination of a suspected terrorist. Since Bill C-36 does define "terrorist activity," the same definition that emerges in the final form of Bill C-36 should be

inserted into the regulations for Bill C-11. It is only logical to apply consistency. Since the government has cited stopping terrorists at the borders as a principal reason to rush the bill, the absence of a definition of a terrorist is a significant flaw.

The claim that Bill C-11 is needed to stop terrorists from entering Canada is bogus. The current Immigration and Refugee Act already provides authorities with the power to arrest, detain and remove persons who constitute a security risk to Canada. Surprisingly, this power has never been used.

Since September 11, there have been calls for a perimeter around North America, with Canada and the U.S. integrating their rules governing immigration. I resist this strongly. As Canada's refugee record shows, ours is a more open country, and it should be kept that way. There should be cooperation and information-sharing between our two countries, but let us maintain the entry laws to Canada that Canadians want.

Honourable senators, it is the effect of Bill C-11 on the processing of refugees that concerns me the most. Among those who spoke to this concern was Mary Jo Leddy of the Ontario Sanctuary Coalition, which was formed 10 years ago to protect innocent refugees who received notice that they would be deported to what the Geneva Convention describes as "arbitrary torture, detention or death." Church groups hid these refugees in church buildings until Canadian authorities could recognize their claims for protection. In the process, Ms Leddy learned much about the immigration and refugee system, and we should listen to her.

Ms Leddy told us that citizens and non-citizens are governed by two different sets of laws and regulations. A refugee may be picked up, detained and charged with being a terrorist, and may never see the evidence for such a charge before being deported. With the shadow of September 11 looming so large, it is essential not to so overreact in the pursuit of potential terrorists that innocent refugees are victimized. "Get more officers to do a thorough study," Ms Leddy tells us, and I agree. Ms Leddy further says:

Officers become mean and careless, just to survive. Files can sit for years, unread and unsolved. Someone's children are in those files while growing up as orphans in a refugee camp. Someone's desire to study is in those files while they are wasting away in a coffee shop. Someone's hope to start a business is in those files while wasting away in the line for welfare.

Honourable senators, it is wrong to clamp down on refugees because of a terrorist threat. Canada is not a haven for terrorists. It is, however, a haven for desperate refugees and we must keep it so. We must ensure that in our struggle against terrorism we do not undercut the larger global struggle for the promotion and protection of human rights and human dignity. We must ensure that applicants at the point of entry can fully access the refugee determination process.

I paid particular attention to the testimony of the United Nations High Commissioner for Refugees in Canada, Ms Judith Kumin. Ms Kumin listed the pros and cons of how the bill treats refugees. She told us that the bill affirms Canada's obligation to refugees. It establishes an appeal on the merits within the Immigration and Refugee Board. It has a pre-risk assessment and incorporates into Canadian law certain international obligations, all to the good. However, she also said that the statutory bars to a refugee hearing cast too wide a net, and she provided examples of innocent people who could be barred. Thus, the pre-removal risk assessment becomes all the more important. Ms Kumin also drew our attention to the administrative assistance refugee applicants are entitled to so that they can receive the convention rights to which they are entitled. I asked Ms Kumin how UNHCR weighs the pros and cons. She answered: "This is a bill that the UNHCR can certainly live with." That testimony helped me to make up my own mind about the bill.

However, such approval must not overshadow the need to better clarify the safe third country concept so that refugees would not be in danger of constant deportations until they were eventually returned to the country where they feared persecution.

• \$(1500)

In its observations, the committee suggested that Canada consider entering into formal agreements with other countries, especially the United States, to enhance the orderly processing of refugees.

Finally, in light of the many problems surrounding the immigration and refugee system, the committee recommended that the Senate do an in-depth study of all aspects of Canada's immigration and refugee system. Such a study should define the fundamental issues in order for Canada to remain a just and welcoming society and set the standard for a rapidly evolving world community. The history of the effectiveness of Senate studies on several issues commends this recommendation.

[Translation]

REPLACEMENT OF SEA KING HELICOPTERS

COMMITTEE OF THE WHOLE—APPEARANCE OF OFFICIALS ON PROCUREMENT PROCESS

On the Order:

The Senate in Committee of the Whole to welcome senior officials from the Department of National Defence and the Department of Public Works and Government Services, for a briefing session on the marine helicopter procurement process.

The Senate was accordingly adjourned during pleasure and put into Committee of the Whole, the Honourable Rose-Marie Losier-Cool in the Chair.

The Chairman: Honourable senators, before we begin, allow me to draw your attention to rule 83 of the *Rules of the Senate*, which states that:

When the Senate is put into Committee of the Whole every Senator shall sit in the place assigned to that Senator. A Senator who desires to speak shall rise and address the Chair.

Is it the pleasure of the honourable senators to deviate from rule 83 of the *Rules of the Senate*?

Hon. Senators: Agreed.

Pursuant to order adopted by the Senate, Allan Williams and Jane Billings take a seat in the Senate.

The Chairman: On behalf of all senators, I welcome our two witnesses, Jane Billings, Assistant Deputy Minister, Supply Operations Service Branch, Public Works and Government Services Canada, and Allan Williams, Assistant Deputy Minister (Materiel), Department of National Defence.

Do the witnesses have a preliminary statement to make?

[English]

Ms Jane Billings, Assistant Deputy Minister, Supply Operations Service Branch, Public Works and Government Services Canada: Good afternoon, honourable senators. We are pleased to be here and we thank you for the opportunity to provide an update on the progress of the project to replace the current Sea King helicopters with a new maritime helicopter to take us into the 21st century.

Today, as indicated in the material with which we have provided you, we propose to cover the environment in which we are working and structuring this project, the background of the project, what we expect a maritime helicopter to do, some of the procurement objectives, elements of our strategy, who currently appears to be interested in pursuing this opportunity with the Government of Canada, where the project currently stands and what we propose to do next.

On environment, Canadian government procurement operates in a very complex environment. We must take into consideration all the subjects depicted on this slide.

• (1510)

First and foremost, it is essential that the helicopter that we procure over the course of this project does meet the operational requirements of the Department of National Defence. This is a mandatory requirement of the procurement, and a fundamental part of the procurement strategy and of the evaluation of the proposals.

We are conducting at the moment an extensive consultation with industry to ensure that the technical requirements are well understood by industry and that the procurement concepts that we are dealing with, some of which are very new and innovative, are within the capability of industry to address.

Also, industrial benefits play a key part in how we are putting together the procurement strategy, so that all regions of Canada and small business can benefit from this strategy. Indeed, you will see as we move along that we have to do this in the context of our trade agreements, which are complex and very demanding, in order to ensure that there is a competitive opportunity for companies to bid. Compliance to these trade agreements is a paramount objective as well.

I will give some background on the next two areas. As you all know, the current Sea King fleet is 38 years old and is reaching the end of its operational life. The new shipborne project was started by the Canadian government back in 1986 with a competitive process. At that point, we went out to industry. We invited 10 companies to bid and we received two proposals, only one of which was compliant. We went into a contract with a new company, EH Industries. EH Industries in turn had a major subcontract with Paramax Industries, which is now reformed and is largely Lockheed Martin at this point.

In the late 1980s and early 1990s, the Department of National Defence undertook a review of its Labrador helicopters as well, and at that point decided that the EH Industries product was best suited to meet their needs. We went into a new contract arrangement with EHI, adding on the additional helicopters to suit the search and rescue mandate as well as the shipborne aircraft.

At that point as well, the government decided that rather than have EH Industries carry the whole contract, it would, in order to manage risk at that point, have two separate contracts, with EHI delivering the helicopters to the government as prime and the government then entering into a separate contract with Paramax to integrate the mission systems and to complete the helicopters.

We had separate contracts, at one point \$4 billion each, with each company, and it was those contracts that were terminated in 1993, with termination costs of \$478 million.

We then commenced a new process to acquire the search and rescue helicopters. In 1998, EH Industries won the contract to provide the Cormorant helicopters to satisfy the SAR requirement. The Cormorant is a variant of the EH-101 and is also a candidate for the Maritime Helicopter Project, which we are now out to acquire.

I will turn it over to my colleague Allan Williams to take you through Department of National Defence's requirements in the next part of the presentation.

Mr. Allan Williams, Assistant Deputy Minister, Department of National Defence: I echo my colleague's words that it is a pleasure to be here today to share some of our thoughts with you and to increase understanding about this very important program for the Department of National Defence.

I turn now to the rules, which are consistent with the 1994 White Paper and defence planning guidance. I would draw your attention to the subsurface surveillance section. The shallow

water surveillance is in fact a significant change from the acquisition that was undertaken back in the early 1990s. Working in shallow waters, of course, presents its own unique threats and this helicopter therefore has to be capable of combating those threats. That is why you will see things such as machine guns and life rafts on this helicopter that you would not have seen on the previous one.

Turning now to the operational requirements, the government has authorized us to acquire 28 maritime helicopters. These helicopters are designed to meet a number of needs. First, 15 are designed to meet the white paper operational context. As you know, we, in fact, have a commitment to support the Standing Naval Force Atlantic, part of the NATO operations. That takes care of one of the 15. Seven helicopters are assigned to each of two task forces, one that operates on each coast. As you are probably aware, each task force consists of up to four combatants. By that I mean frigates, destroyers or submarines, with required helicopter support.

Our helicopter support has been deemed to be necessary to provide two helicopters 24 hours a day, seven days a week. In order to accommodate that requirement, we need seven helicopters to support each of the two task groups. Seven times two is 14, plus one is 15. Three more are needed to support our aircrew training, and five to accommodate maintenance. There are two types of maintenance. One is what I would call the depot level inspection, which is a fairly significant overhaul every five years or so, and periodic inspection every 600 or 700 hours. Finally, we have one for ongoing test and evaluation, and four in case there is attrition over the next 25 years.

In terms of the helicopter requirements, again, these are specified under the statement of operational requirements and are derived largely from very detailed and rigorous operational research studies. Ms Billings and I have tried in this procurement to work at high-level performance standards for industry. These articulate some of the high-level requirements we have asked industry to try to meet. In terms of endurance, we have asked them to ensure there is a minimum two-hour-and-50-minute capability, with a 30-minute reserve, and that should allow for 60 minutes of hovering time. This should take place at a temperature of 15 degrees Celsius.

We also have specified payload requirements: a crew of four, a pilot, a second pilot, a techno-coordinator and a sensor operator. I would just emphasize, in terms of the payload requirements, we have asked industry to allow for what I call role-fitting. There may be occasions when we are undertaking specific kinds of missions. We know about them, and we will permit industry to make allowances for that. For example, if we knew we were going on a fisheries patrol, it would be quite appropriate to take out some of the particular equipment and to allow room for a boarding party of six. We have asked industry, though, to ensure that in such events they have certain time limitations that they must try to meet. To reconfigure, to transport, configuration must be done within an hour. To move back into a more complex mission system because of the need to reconfigure all the sensors, we have asked for a time limit of three hours.

Finally, there are a number of issues dealing with integrating and interfacing the helicopters on the ships. I have indicated some of them here. The costs for doing that will be borne by the private sector bidders.

The second part of this major acquisition deals with the system. Here I have indicated 12 major areas for the systems. In essence, these systems will allow us to conduct the operations as required, communicate with the task force group, as well as with our allies, detect threats to the task force as a whole, combat sub and subsurface threats, and protect our crew from threats as well.

In terms of the acquisition framework, I would start by saying that, if anyone did not really understand the significance of what we have been calling the revolution in military affairs, after September 11 they sure do. There is no question that we are coping with the new reality today. The notion of asymmetric threats, the notion of coalition warfare, the need to be deployed quickly and efficiently, the rapid change in technology are all part of today's world. Therefore, within the material world of National Defence, we have to be able to cope with this environment in what I would call a commensurate revolution in business affairs.

The Department of National Defence has developed a framework called "getting it right," which is our answer to the revolution in business affairs. I outlined this program to the Standing House of Commons Committee on Defence and Veterans Affairs on March 21 of last year. I think it is very relevant because we are now putting in place a lot of those best practices in this procurement.

"Getting it right" stands for getting the right goods at the right time to the right place, with the right support, for the right price, within the right rules, and with the right kind of expertly trained people.

• (1520)

There are three main dimensions. The first is a focus on industry and active communication. Ms Billings and I and our project team have spent months discussing this initiative with industry. We do it for two very significant reasons. First, we want to make sure that industry is not improperly interpreting things that we say. Second, we want to know whether we are saying things that do not seem to be doable or understandable by industry.

The key baseline for me, throughout all the discussions, is not to change one comma or one letter in the statement of requirements. That is sacrosanct. The statement of requirements was prepared by the military for the military. It is the military's articulation of what it needs to meet its needs and what it needs to do the job, at the same time making sure that the men and

women who serve in the forces have a safe environment in which to work.

We have had extensive consultations. There have been well over 1,000 suggestions and recommendations back and forth. We are looking at all of those now to ensure that we remain true to the statement of requirements and that we understand what industry can and cannot produce.

In terms of consultation, we wanted to ensure that in moving from the statement of requirements to the more detailed specifications we did not inadvertently raise or lower the barometer. To that extent, a U.S. company called MITRE Corporation, which is a federally funded R&D centre, has provided us with assistance and analysis. It operates at arm's length and does not compete with the private sector. On August 8 of this year, it provided us with a report confirming that we had remained true to the statement of requirements and had not inadvertently tampered with what was indicated in there.

In terms of best practices, cost containment is obviously crucial to the department. We want to make sure that we use the taxpayers' money in the most efficient way possible. To that end, we are doing two things.

First, we are using cost as an independent variable, or CAIV. By that I mean that rather than asking industry how much it would cost to do this, we have told industry that this is the most we can spend. We want them to tell us whether they can deliver what we want within this price range. In other words, we have said, "We cannot spend any more than this. We can spend less than this, if you are smart enough to deliver what we want for a lesser price, but we will not spend more." I think that is just good business.

Second, we adopted a lowest-cost compliance approach, which again was a positive development. We have said to industry that we know what we want. We know what we need in all aspects of the health, safety and operational requirement. These are the things we want to see. These are the things we want them to deliver. If they can be compliant with what we need, we will take the lowest price bid. In other words, we will not spend money on things we do not need.

The third aspect of cost containment is referred to as "total package procurement." Again, for the first time, Ms Billings and I are bundling the initial acquisition with a 20-year support contract. Rather than find ourselves in a position where we buy something that looks like a good deal only to find out that the incremental long-term support costs escalate dramatically, we are saying, no, not this time. We want to know the full cost for 20 years. We are bundling the two together, and the company that comes forward with the overall life cycle cost minimization is the one we will select.

Finally, with respect to best practices, we have introduced the notion of pre-qualification. We said to industry that we want to make sure there are no surprises when the request for proposal comes forward. We want to ensure that companies are not ruled non-compliant over some small matter. Therefore, we will have a pre-qualification phase. We will work together. They will tell us what they want to submit, and we will let them know whether it meets our technical specifications. If it does, they will get an assurance from us that should they submit that same proposal, post-RFP, it will be accepted. Then the key condition will be whether they are lowest cost and whether they meet Ms Billings' other terms and conditions, in addition to meeting the other certification requirements. Pre-qualification puts to rest the risk that for some small matter, someone makes a mistake and does not submit a compliant technical bid, when in fact compliance is at his or her fingertips.

Finally, in terms of contracting, our focus is on high-performance specifications, to let industry know what we want so that industry can use its innovation and creativity to give it to us in the best possible way.

There has been much discussion about costs. There is no doubt in my mind that the government will be saving between \$1 billion and \$1.5 billion undertaking this acquisition, combined with the one for the search and rescue helicopters of a few years ago, relative to what we have done in 1993.

I would like to say that Ms Billings and I are brilliant and it is because of us that we are saving this money, but that is not the case. Hopefully, we are smart, but that is not why we are saving all this money. There are two key drivers here.

In the 1990s, in the acquisition to which Ms Billings referred, we focused on developmental products. The cost for industry to develop the systems was borne by the Canadian taxpayer. That is an expensive way and high-risk way of doing business. Today, we have many competitors who feel that they can supply us with what we need.

The second major driver is the degree of competition. As I just said, we have many bidders for frames. We have many bidders for the systems. The combination of the degree of competition and the fact that we are talking about off-the-shelf military or commercial products accounts for the major savings.

Let me make it clear that we are talking about delivering exactly the same capability for between \$1 billion and \$1.5 billion. There is a lot of difference in the numbers and in the substance of what we are buying, but that does not change the bottom line: The taxpayers will be saving a lot of money. The Department of National Defence can use that money for other equally important acquisitions.

Ms Billings: We have covered some of the procurement objectives that have brought a high-level of success, specifically for this project. When we go into each major project, we look at

what it is we are trying to achieve in structuring the procurement. Obviously, we want to acquire the equipment DND needs at the best possible price, with the acceptable terms and conditions. In a project of this size, we want to obtain industrial and regional benefits to allow all Canadian companies in all areas of Canada to benefit. We want to spread some of the growth potential throughout the country. We want to support small and medium-sized business as well as Aboriginal interests in the procurement aspects so that there is an evening benefit. In each case, we look at those specific goals to ensure that they are achievable. There is no point in structuring an regional industrial benefits package that bidders cannot bid against. We want to achieve those goals without making them a barrier to bidding.

A key mandate of my department is to ensure that the process is fair and open and that we encourage a competitive environment. In this context, the Canadian government handles its procurements in matters separate and unique from any other of our trading partners or military partners. This approach stems from the beginning of World War II when we established the War Supply Board to ensure that we could run a fair and objective procurement process and meet the requirements of departments. Ever since then, we have maintained a separate department to carry out these procurement processes in partnership with the acquiring department. That system has worked well for Canada. On our major projects, especially for the military, we have a better track record for on-time, on-budget delivery than most of our trading partners.

• (1530)

We certainly need to comply with legislative and government contracting policies. They are essential and the law of the land. We must be aware of them and to respect them as we move forward.

In this particular project we also have the desire to have the first mission-ready maritime helicopter as soon as possible, which is no easy feat.

Senator Forrestall: There is that word "soon" again.

Ms Billings: With respect to the procurement policies, as we structure procurement activity within the Canadian government, we must keep in mind three trade agreements. The first is the World Trade Organization agreement which was the successor to the General Agreement on Tariffs and Trade, or GATT. The second is the North American Free Trade Agreement. The third is the Agreement on Internal Trade.

Defence as an entity is excluded from both the World Trade Organization agreement and the North American Free Trade Agreement for this type of purchase. However, in the Agreement on Internal Trade, there is a requirement that DND respect the provisions of that trade agreement on the basis that it is an internal trade agreement and that we want to ensure that we meet its objectives of encouraging competition among Canadian suppliers and across Canada.

I should like to take a moment to discuss briefly one of the aspects of the trade agreements that has been raised at various points in the discussion on this particular procurement, and that is, whether or not the fact that we have already purchased 15 search and rescue helicopter is sufficient grounds to allow us to go sole source with the maritime helicopter on the basis that we would have a common fleet or commonality.

It is important to realize that, even though the Agreement On Internal Trade specifies some areas in which we can sole source and allows compatibility in certain areas under Article 506, it expressly does not allow for us to buy more of a major system just because we have one. Believe me, we have tried to do that from time to time. The recourse mechanism for suppliers who feel they have been hard done by is the Canadian International Trade Tribunal. In every case, it has told us that we cannot use commonality to support buying more of a major system. We can use it to buy spare parts on a sole-source basis and to ensure that we have maintenance of inventory, but we cannot use it to justify going out for a sole source, even to expand the fleet of search and rescue helicopters or to buy the same types of helicopters. It has been an area of some discussion.

The bottom line on this issue is that under our trade agreements we have an obligation to compete this requirement and go forward. If there are elements of commonality and cost savings, then through the bidding process the bidders will have an opportunity to take advantage of possible cost savings by spreading their activities across Canada's overall asset base.

As well as the trade agreements, we also have the Treasury Board policy on contracting and the government contract regulations that apply to maritime helicopter procurement. In essence, all of these have very similar provisions with respect to the requirement to compete and the requirement to maintain a fair and equitable process for Canadian companies with a recourse mechanism if they feel aggrieved.

Turning to the procurement strategy itself, Mr. Williams has mentioned in discussing some of the best practices with me in the getting-it-right environment some of what we are doing with respect to the procurement strategy. The slide on page 15 recaps the key elements that comprise our current helicopter strategy. We will compete, and I explained why we were competing it. We are looking for off-the-shelf helicopter mission systems. This means that we are not paying for developmental costs at all. We are looking for the lowest price compliant evaluation methodology. We are looking for IRB targets that are equivalent to the size of the purchase and which emphasize the high growth areas, as well as small business. We are looking for certification at the time of contract award. This, in fact, is a proxy for ensuring that, indeed, we are buying off the shelf, and it is a risk mitigation matter. We do not want to get to the end of the contract delivery time and find that we have a helicopter that cannot meet the certification requirements.

Mr. Williams talked about the prequalification process, which is another one of our risk mitigation approaches. It ensures that we are getting what we need when we reach the end of the bid process and that companies have an opportunity to ensure that they do not make little mistakes along the way that would knock

them out. In this type of approach, if the helicopter manufacturer's mission systems providers do not meet the mandatorys, they are automatically out of the competition, which would mean we could move to a very small field very quickly. Therefore, this prequalification process is highly innovative. Thus far, we are pleased with how it is going. We are having a lot of one-to-one dialogue with the companies with a lot of exchanges of information and I think a growing of knowledge as we move forward.

A key element in our risk mitigation and on the procurement strategy is that we are running the in-service support contract requirement with the overall purchase. In fact, we are running two separate competitive processes. We will end up at the end of the day with four contracts. There will be one contract for the helicopter and one for its 20-year in-service support. It same applies to the mission systems contract and to the mission systems in-service support. However, we will be evaluating the vehicle and the in-service support along with the necessary ship alterations as one package for the lowest price compliant, along with acceptable terms and conditions and acceptable regional benefits for the country. The same applies to the mission systems.

Turning to the next page, we have spent some time on the procurement strategy, which is consistent with contracting policies regarding best value. The Treasury Board contracting policy requires us to ensure that we have the best value.

Traditionally, in Canada, as well as in many other countries, lowest price was the norm. It was how you evaluated all of your bids, if you went competitively. In Canada, we have stretched that to say that we are looking for the best value or, if appropriate, the optimal balance of results for the Crown and the Canadian people that allows us to take into account in complex procurements the combination of price, technical merit and quality as determined by the contracting authority prior to the bid solicitation. We have publicly informed the bidders exactly how we will make our evaluation, so that they know what to expect. We then evaluate according to this process. If we do not, then they have forums of recourse to ensure that they are treated fairly.

The prequalification process in this case allows us to go with a lowest price compliant methodology. The prequalification period allows us to check with the companies to see what it is they are offering to us against our specifications to ensure that it will do what we are looking for and have the functionality we are looking for. It then becomes a matter of price. Combined together, we are confident this gives a best-value approach for the Government of Canada.

The following page expands on that. It is more focused on the fact that, because we have built in in-service support as part of the pricing evaluation, we will ensure that the helicopter and mission systems manufacturers will not come forward with the bottom of the barrel or shoddy goods, because they know their price has to take care of it over the lifetime of the helicopter. We are pushing this together so that the bidders will have to make the tradeoff in the balance between quality and short-term price. Again, it is another risk mitigation strategy that we have been following.

We have structured our procurement strategy to try to meet all these sometimes conflicting requirements in which we operate of meeting the trade agreement requirements, the government regulations, DND's needs, ensuring that there is benefit for Canadians across the country and that we are being fair, open and competitive.

With that, I will turn it back to Mr. Williams to speak about what we are now seeing as the bidders come forward.

Mr. Williams: Thus far, four companies have come forward for elaborate discussions. EH Industries is a division of Agusta/Westland, which is 50/50 owned by Finmeccanica of Italy and GKN of the U.K.

• (1540)

Eurocopter, created in 1992 from the merger of Aerospatiale-Matra in France and Daimler Chrysler in Germany, is now 100 per cent owned by EADS, which is the European Aeronautic Defence and Space Company. Sikorsky, is a subsidiary of the United Technologies Corporation of the U.S., and NH Industries', which is responsible for the program management and marketing for the NH90 helicopter, main partners are from France, Italy, Germany and Portugal.

The next few slides give you pictures of those particular helicopters. The companies submitted them; therefore they are as true as they can be to the current product.

On slide 24, I will mention the potential bidders for the mission systems. You will see that there are 11 companies that have currently indicated interest. Four of these mirror the actual bidders themselves on the frame. The others are probably well known to everybody here.

I would observe that during the last few months Boeing has indicated that they will be working extensively with EH Industries, and CDC has similarly indicated that they will be working with Sikorsky.

Ms Billings: I will provide information on where we are in the project. The government announced on August 17, 2000 that we were going forward with the Maritime Helicopter Project. We issued a letter of interest to industry on August 22, 2000, the following week, and the responses came from industry on the October 9, 2000. Mr. Williams has gone over those companies that have indeed responded and are actively playing with us. We had a far greater response than we had expected in the mission systems side. Therefore, it took us some time to digest what we had and to assess it against what we were proposing.

On the letter of interest, we were proposing to let industry know *grosso modo* what we were buying, how we were proceeding and what the process would be. We asked them to come back to us with comments as to price cap, timing, and the procurement process, as well as to indicate who they were, where they were from, and their willingness to engage and to be seen as

a prime candidate. We have done this in a very innovative fashion.

We put it all up on the Web. We have a pointer from the electronic bidding system, MERKS, which goes from that Website over to the ADM Mat site where there is an entire site on the Maritime Helicopter Project. All these documents are on that site. We have now put up the response by the government to the letter of interest. We put that out on May 16, 2000. We indicated those companies that had responded and those that we viewed as being able to meet our specifications.

There was one helicopter based vehicle manufacturer that, in fact, did not meet the capability requirements for which we were looking, and there was one company that offered two helicopters, one of which did not meet the basic capabilities for which we were looking. We indicated that we would be dealing as prime contact with those companies and that other interested companies that might want to be part of the Maritime Helicopter Project should make their own arrangements to deal with those companies. We were very pleased with the response and the interaction we had with the letter of interest.

The letter of interest did confirm that we were going ahead as we had planned. Although we had many comments on many different aspects of the procurement structuring on the two competitions, the certification date and other things, on balance, the government viewed its procurement approach as robust and able to carry the weight of the requirements.

Shortly after the LOI response was posted on the Website, we moved out with what we call the draft of the "Basic Vehicle Requirement Specifications," and started engagement with the companies on this. There has been intense bilateral activity all summer with Sikorsky, EHI, NHI and Eurocopter with respect to how they see themselves against these basic vehicle requirements. We have had a lot of comments, and we are still in the process of assessing those and in dialogue with the companies. In some cases, as was mentioned, we have rolled back.

I should mention that our basic template has always been a military statement of operational requirements. It was noted that it could not be altered, regardless of whether a company would have liked for us to drop something that would give them an advantage. It was immutable. We did find while translating the statement of requirements into the BVRS that we did, in fact, have some movement. In those cases we assessed whether we should adjust the BVRS. In some cases, companies know that we are adjusting, and in other cases, they do not, and they will not know until we go out with the next draft of the BVRS, which we expect to be moving out early this November, very shortly.

Following that, we expect to go out with the draft pre-qualification letter, which will lay out the pre-qualification process because we would like companies to have a chance to get back to us on whether they think that process is workable and to ensure that they understand exactly how it operates.

On the several pages, we are laying out the next steps. We are working on the statement of work and the terms and conditions documents that will be part of the formal request for proposals, which will go out next year. As we finalize those in draft, we will put them on the Web site and ask for comments. We will be rolling out components of the RFP in draft stages for comment and input. We are looking to start releasing these documents later this month or early November.

We will continue the interaction with industry until the release of the final RFP. This is a highly unusual approach for us. Generally, we lock down quite tightly. Normally, when we are in a draft stage, we have a very formal process for communication with industry where everybody knows what everybody else has said and what we have responded back to them. We are encouraging more of an open dialogue as we go forward on this one.

The pre-qualification process will continue until about a month before we expect the bids to be submitted. We expect the final RFP for the procurement to be released early in 2001 with a contract awarded late in the year, about eight months later.

I hope that this presentation on how we are proceeding will have given you a good introduction into the procurement strategy, DND's requirements, the process that we are following and where we are in that process at this time.

Senator Lynch-Staunton: Thank you, witnesses, for your presentation. It is complete and most informative, although highly complex. I hope that we understood most of it. The jargon is sometimes slightly different than that to which we are accustomed.

I must say, with no reflection on our two witnesses, how disappointed that some of us are that the government has not accepted that this Committee of the Whole go into the subject matter in a more full and complete way than it is allowed to do now. It is very well to hear two qualified officials from two departments entertain us on the background to the process, but it also would have been equally informative to hear from witnesses who have some problems with that process and who may find flaws in it. I do not know whether we here are equipped to find such flaws, assuming there are flaws. Even our witness would have to agree that it is not a perfect bidding process.

That being said, I hope that after today the government will reconsider its veto of further witnesses and be more flexible in the work of this committee, if it is to continue, in order to allow an overall appreciation of a highly complex and, I must say, controversial bidding process, one which has led to certain accusations from potential bidders regarding their possible exclusion and one which has led to accusations of political interference and other insinuations that none of us like to hear. As well, I think all of us would like to have those matters clarified. I am not too sure whether our witnesses today could help us in that regard.

We are here because of a decision taken by the government in November, 1993, to cancel a contract awarded one year prior, as was mentioned at the beginning of the presentation.

• (1550)

I address my question to both witnesses. I do not know which one of you is more qualified to answer. Both of you may want to have some input, and that would be fine.

Was there any consultation by the government of the time with either the Department of National Defence or the Department of Public Works, or both, before the cancellation of the contract was announced?

Mr. Williams: I joined the Department of Public Works after that decision had been made.

Ms Billings: I replaced Allan in his position, so neither of us were in our current responsibilities.

Senator Stratton: These are credible witnesses.

Senator Lynch-Staunton: This is the problem we will have. To understand the situation we are in now, it is best to have an appreciation of the situation that brought us to today. Can you tell us if the decision to buy the EH-101 was considered by both departments to be the right decision?

Mr. Williams: To repeat, I was not privy to the decisions made to buy or to undo the contract at the time.

Senator Lynch-Staunton: Surely, when you got into this new bidding process, you must have consulted others. You refer to that period in your presentation, so you must have gone back into the files and read some of the assessments and recommendations. Did that period not influence what we are doing today, or has that information been completely neglected?

Ms Billings: When the procurements were structured and the processes were run in the late 1980s, the process followed was one that delivered what the government and the officials at the time deemed best for the purposes at that point. For what we are running at this point and for each major procurement, we start afresh. We certainly look at processes that have been run before, what has worked and what has not worked. Our objective in this one is to run a fair process that will acquire a helicopter that meets DND's requirements as currently articulated.

Mr. Williams: I would add that the world is dramatically different post-1994. In 1994, 1995 and 1996, we had the development of the international trade agreements and the IT to which Ms Billings referred. That puts a considerable legal framework around how we do our business today. That legal framework has been applied to both the acquisition of the search and rescue helicopters and to the acquisition of the MHP.

Senator Lynch-Staunton: We should not get sidetracked by legal arguments. We are trying to find out if this bidding process will lead to acquiring the best helicopter possible for the objectives that we want it to attain.

I question the decision to cancel based on a number of experts who commented on this at the time and who were delighted with the government's decision. One such expert was Rear Admiral Richard Waller. I do not know whether he is still active. At the time, he was Commander, Maritime Forces, Pacific. He is the sort of person I would like to have as a witness here. He is a practical helicopter man who could give us views beyond the views of those who are responsible for the bidding process. He had practical experience with helicopters. At that time, in talking about the EH-101, he said that the forces chose that helicopter because it was the only one in the world out of the development stage that would meet all our requirements.

Was that conclusion, made by him and others, an accurate one?

Mr. Williams: Certainly, the search and rescue helicopter, without question, met our operational requirements. As we have said, the forces have outlined clearly and absolutely in their statement of requirements what they expect to be delivered to them from this procurement. We have said it over and over again: We have not modified one comma, one letter, from that statement of requirements. We will deliver to them, without any question, a product that meets their operational needs.

Senator Lynch-Staunton: Is the military statement of requirements at present the same as it was in the lead-up to the EH-101 contract?

Mr. Williams: Thankfully, no. The requirements of today are dramatically different from the requirements in the early 1990s. The forces did what I hoped they would have done: They started with a clean piece of paper, analyzed the world as it affects us today, and tried to develop specifications to meet the needs of today. I commented briefly on the revolution in military affairs. That is with us today. The need to fight and do battle in latoral waters is a huge difference from before. This particular product was developed with today's needs in mind, not based on requirements that are 10 or 15 years old.

Senator Lynch-Staunton: Can you elaborate on that? What is the difference between your definition of war today and what it might have been 15 years ago?

Mr. Williams: The environment in which we are operating today, as is evidenced by the current battle, very often requires our task forces —

Senator Lynch-Staunton: Sorry, what current battle are you speaking of?

Mr. Williams: Our forces are now leaving to go to the Persian Gulf.

Senator Lynch-Staunton: What does that have to do with the bidding process?

Mr. Williams: Your question was about how today's environment is different.

Senator Lynch-Staunton: No, my question is how your definition of "war" today differs from the definition 15 years ago.

Mr. Williams: Today, we are trying to equip our soldiers with equipment that allows them to do battle, potentially, in a latoral water environment near seashores, as opposed to in blue waters in the middle of the ocean. That kind of environment requires or necessitates different kinds of threats to our men and women. When you are closer to shore, you have the potential for machine gun attack. Different kinds of missiles can come at you from the shore. We want to equip our new helicopters with sensor systems that can protect our people in today's potential environment. That is what we are trying to do.

Senator Lynch-Staunton: You are saying that cancelling the previous helicopter was a good decision because it was not designed for today's definition of war by your explanation. Should we not then conclude that the definition of war 15 years from now may be different from the one you have been given today and, therefore, we will have another obsolete piece of equipment on hand?

Mr. Williams: Sir, I am not making any comment at all on the decision to cancel.

Senator Lynch-Staunton: You already said it was a good thing.

Mr. Williams: I did not say the previous decision was good or not good. I simply pointed out, in response to your question, that the environment in which this statement of requirements was prepared is today's world. We have done a strategic look-forward to prepare our mission systems for the future. By building in the long-term contract, we are hoping to get upgrades to the systems as necessary in order to take advantage of changes in technology to meet future needs as well, but there is no guarantee. Certainly, we are better equipped with today's mission systems to meet the needs of today than we otherwise would have been.

Senator Lynch-Staunton: That to me is a very incomplete and vague answer. These helicopters were designed at the time to go on frigates; is that not correct? Our frigates out there now have Sea Kings that are not quite obsolete but which are not as reliable as they should be. Some call them obsolete; some call them dangerous. They require 30 to 40 hours of maintenance before they can have one hour of flying time, which, by the way, you have not factored into your costs.

Mr. Williams: In fact I have. I will come to that in a moment. First, while the helicopters that we are currently employing may not be as effective as a sensor system, let there be no doubt that we would not send them to be used by our men and women if they were not safe. We are spending a lot of money on the Sea Kings; that is absolutely true, but in terms of reliability and safety, they certainly have that.

The cost of maintaining our Sea Kings today — in the order of \$100 million — is not that dissimilar from the cost we expect to spend on the new helicopters which will be newer and more sophisticated. The effect will balance out.

• (1600)

Senator Rompkey: Inherent in both the presentation and the questioning is a comparison of then and now — “then” being the Cold War period and “now” being the present environment in which we live. It is worth putting on the record that the role of the Canadian navy then and the role of the Canadian navy now is quite different.

The Canadian navy from the Second World War on was an anti-submarine navy. The platforms were designed with that objective and that mission in mind. That was the mission of the Canadian navy. If we have learned anything post-1994, certainly post-September 11, it is that the submarine is not the biggest threat that we face. Clearly, a platform designed in the 1980s is not the kind of platform that would be needed in the 1990s and beyond. It is worthwhile to underline that point because it is fundamental to our discussion. Perhaps our witnesses could comment further on that.

It is clear that some redesigning of the specifications had to be done and is being done now. How is the process implemented from this point?

There has been much discussion about how the contracts will be awarded. There are some who say that one contract would be preferable, and there are those who say that two contracts would be preferable. Indeed, there is precedent for two contracts. As the witnesses said in their presentation, the original contract was to have been split between EH and Paramax, with Paramax acting as the systems integrator. Clearly, there is a precedent for splitting the contract; indeed, there have been other such instances.

I want to provide the witnesses with an opportunity to speak to that issue and to clarify the contract issue because it has been a subject of much discussion. How is the contract to be awarded and what are the merits and demerits of splitting the contract? In that context, it would be worthwhile for us to know how that process benefits Canadian industries because industrial benefits across the country are important to all of us.

Canada has produced many excellent high-tech firms, some of which are based in this area. Some of them are becoming very important throughout the world. In the contract process, how does that benefit Canadian firms, both here and elsewhere in Canada, that may want to bid?

Ms Billings: When we were developing the procurement process, we looked at all the variants and all of the pros and cons of how we might structure the process. There were advantages and disadvantages to every procurement process that we analyzed. In terms of the two-contract approach, though, we were looking at the fact that there were no domestic helicopter manufacturers for maritime helicopters. In many cases, “teaming arrangements” were established with partners that were not necessarily Canadian.

We looked at the possibility of holding two competitions instead of one, specifically geared that to the fact that more mission systems companies could come forward to compete as potential prime integrators. Had we gone with the one-contract approach, these companies might have been blocked out.

We received 13 respondents to the letter of interest, or LOI, including all the mission-based vehicle manufacturers who offered themselves as prime contractors. One of those companies dropped out when their vehicle did not meet the capability requirements, and another respondent withdrew recently, deciding to opt out as a subcontractor.

On the list, honourable senators, you will see a number of Canadian companies or subsidiaries of foreign companies with an active presence in Canada. Those companies see themselves more actively able to bring to the potential helicopter manufacturers the advantages of working with their company. In some cases, these are companies with no exposure to the prime manufacturers on the vehicle side. This was a key factor in how we looked at structuring the competition.

Certainly, there is increased risk in managing the two competitions, which essentially makes the federal government the prime contractor. To mitigate that risk, and we addressed this first in the LOI, we would be asking the company that wins on the mission systems side to take on the role of prime contractor. That company would then work with the base vehicle manufacturer to develop a working arrangement, a new agreement, so that they can act as one, with the mission systems company being the integrator. We are using that mechanism to mitigate our risk.

Mr. Williams: I should like to add one point. You referenced the previous contract and the way in which it was structured. That goes back to our point that we must look at each procurement individually. The decision to have the contract split was based on a competition that focused on two developmental products, which were high-risk initiatives. Allowing one company to be the prime company would impose, because of the risks, very significant incremental costs on the Crown. Rather than absorb those high risks, it was decided that we would take on that leadership role of prime contractor — split the two and act as prime contractor.

All of this is to say that each and every contract has to be looked at individually. The fact that we will have two rather than one, while different, does not necessarily make the process better or worse.

Senator Rompkey: Is it fair to say that splitting the contract opens things up and provides more room for Canadian firms to become involved as partners or to compete, particularly on the mission systems?

Mr. Williams: Yes, it is.

Senator Rompkey: There has been much discussion about the fairness of the process. The comment was made that there have been accusations, but is it not true that all bidders have complained? If all bidders are complaining, does that not underline the inherent fairness of the process?

Ms Billings: All the bidders are trying to position themselves so they have the advantage to win. All have expressed concerns about various aspects of the process. Minister Eggleton remarked that if we annoyed them all equally, then we must be doing something right.

All of the products are somewhat different, and all of the bidders see themselves differently against the procurement process. They are all trying to work to their own advantage. However, we are optimistic that they will all see their way into entering the pre-qualification process and that we will have viable bids from all of the companies.

Mr. Williams: Honourable senators should recognize that we are inviting comment. We want industry to talk to us now, and we want to ensure that we understand what industry can deliver. This may surprise senators, but we were surprised by some of the things industry could and could not do, as opposed to what we read from their brochures. Therefore, we need to talk and to understand. When that is done, we will invite comment and debate.

We are talking about a huge multi-billion dollar program. The initial acquisition is \$3 billion. When long-term support is added, the total will be upwards of \$5 billion. I would be surprised if industry did not aggressively try to position itself in the best possible way. Not to expect that would be wrong. They all do it and they all should do it.

However, it is up to us to ensure that at the end of the day the integrity of the process is maintained and that our men and women who serve in the forces receive the product they deserve.

Senator Rompkey: My next question flows from the initial mission statement: what was needed then and what is needed now. There has been some discussion about operational requirements and, specifically, about the number of engines that are required. In the past, perhaps there was a different requirement because of the range of the aircraft or the missions that had to be performed. It is worthwhile underlining again that the Canadian navy used to be an antisubmarine navy. The ships had a certain range and, therefore, certain mechanical requirements in terms of how many engines were needed, how powerful they had to be and so on. Today, the mission has changed somewhat.

• (1610)

The Chairman: Senator Rompkey, I am sorry to interrupt, but your 10 minutes are up. You will be put on the second round.

Senator Forrestall: The exercise we are engaged in is, obviously now to many of you, a very complex one. While from time to time I may have sounded frustrated over the last two or three years with a variety of leaders of the government in the Senate, it is understandable.

I want to again go back to the very beginning, because this is an exercise in stonewalling. I have no other explanation for it other than that. I am prepared to bet it will take another five

years, and I would be delighted to see whether I continue to win. I want to go back to the beginning of this mess. Having lived in Dartmouth, Nova Scotia; and having played basketball at Shearwater, I grew up with men and children whose parents were military aviators who flew helicopters and other planes. Mainly, however, they flew helicopters. Sikorsky kept hundreds and hundreds of men safe in the air and kept their families content and not worried on the ground. That is not true today. They are very worried, to tell you the truth, because they are still flying an unreliable aircraft. All that we on this side of the chamber want is not some low price piece of equipment that will fall far short of the requirements that are needed. Lowest cost suggests just that. Best value to Canadians does not suggest that. It suggests something entirely different. I want to find out where this crept into the jargon and why the Prime Minister cancelled the contract. I want to find out why, or did he just do it on his own? When was the first decision taken to replace the Sea King? What year?

Mr. Williams: Sometime in the 1980s. I am not sure.

Senator Forrestall: That is a good answer.

Ms Billings: The formal decision was in 1986, I believe.

Senator Stratton: It was 1978.

Senator Forrestall: Try 1978. Was the present Prime Minister not a member of the Liberal cabinet in 1978 through to 1981? When the Trudeau Liberal government made the decision to start the process of replacing the helicopter, was the present Prime Minister not a member of that government? Is my mind failing me a bit? Do you not know the answer?

Senator Robichaud: I think these questions are out of order.

Senator Stratton: We have the wrong witnesses.

Senator Robichaud: They are the right witnesses but the wrong questions!

Senator Forrestall: They are not addressing the question that I am asking. How did we get into this mess?

Senator Robichaud: This is not a mess. However, it is a mess in your mind.

Senator Lynch-Staunton: You are not a witness.

Senator Kinsella: What are you hiding?

The Chairman: Honourable Senator Forrestall, please continue your questioning.

Senator Forrestall: I wish you would ask the government's deputy house leader to keep his side comments to himself so that I can continue.

The Chairman: Do not worry, he is not eating into your time. Please continue.

Senator Forrestall: Can you tell me how the statement of requirements developed for the new shipborne aircraft, the NSA? How was the statement of requirements developed in 1984-85? What was the process and procedure followed?

Mr. Williams: I could not begin to answer that. My experience is with the current helicopter that we are talking about.

Senator Forrestall: You do not know how many aircraft companies competed to replace the Sea King in the NSA competition, other than the list of four that you gave us earlier?

Ms Billings: In the late 1980s competition, 10 companies were invited to bid.

Senator Forrestall: Can you name them?

Ms Billings: I do not have the names because only two actually submitted proposals, one being Eurocopter and one being EHI.

Senator Forrestall: Let me deal for a brief moment with Eurocopter. Is Eurocopter a "navalized" piece of equipment? That is, do the rotary blades fold back and does the tail rotor fold? Is it anodized? Is it salt proofed, and so on?

Ms Billings: All the helicopters that will be participating in our competition will have the potential of being "maritimized." Some are not now, but we are buying a maritime helicopter and that is what our spec will call for.

Senator Forrestall: How do you make an exception for Eurocopter? Do you tell them, "Do it whenever you get around to it. You know that it must be part of the program?" Sikorsky was told that they could not proceed with a piece of equipment that had not yet had full certification. Why two different criteria?

Mr. Williams: In fact, that's not correct. We have not told industry what they should or should not do. We have continually told industry what we want as a product and how we are going about the process to acquire it, when things have to be certified and how certification must be done. How industry reacts to it is their business. We are focusing on ours.

Senator Forrestall: You are suggesting to me that the posture of the Department of Public Works nationally, under the present rules of engagement, does not preclude Sikorsky's competing fairly?

Ms Billings: Sikorsky is still participating in the process. We have no indication they will not participate.

Senator Forrestall: It is not material that the vehicle on which they will base their submission or tender has not yet been certified?

Ms Billings: At this point, our requirement is that the certification be available at contract award. The contract award will be some months after the RFP is issued. At that point, it is

up to Sikorsky to have shown that they are capable of having their product certified.

Senator Forrestall: When do you think we will take delivery of the first vehicle, and when will we take delivery of the last vehicle?

Ms Billings: In terms of the delivery date, at this point, we do not have the RFP out. We have a two-bid process. We will be looking at hardening up the time lines once we have a contract in place with the base vehicle manufacturer and when we go forward to select the mission systems integrator. Then we will see what type of economies can be made in the time lines and what industry will tell us is deliverable. All of the participants know that we are looking to have a fully mission system integrated helicopter on the ground as soon as possible.

Senator Forrestall: When will that be? You must have some vague idea. We have a colonel telling us that it may now be 2010. The Sea King will have to have been grounded long before that. It is still our helicopter, though.

Ms Billings: It is still highly desirable to have the first helicopters delivered by the end of 2005.

Senator Forrestall: You are the professional here. We are lay people. This is now virtually 2002.

• (1640)

Is it possible to deliver within three years a helicopter that has not yet been started? Do you honestly believe it can be done in three years?

Ms Billings: It depends. I do not want to foreclose on an answer until industry has had an opportunity to come back and give us more definitive information about what is possible for them. In bilateral discussions, we have had many different views of what is possible depending on the scenario that plays out. Therefore, our instruction to industry and our discussion has been that it is highly desirable to have those helicopters delivered at the end of 2005.

Mr. Williams: Notwithstanding when they will start, we are asking for 28 and they will roughly come one a month, so we are talking about two plus years.

Honourable senators would not be surprised to learn, therefore, that we are already making provisions to ensure that our good friends the Sea Kings are airworthy. On an annual basis, we have our airworthiness boards ensure the safety of the helicopters. We also have boards that look after the sustainability of the equipment. The Sea Kings are reviewed on an annual basis. We have recently made upgrades — and senators will see this in the cost charts — to the centre sections, to the gear boxes and to the engines in order to ensure that the Sea Kings have a life extension through the year 2010 and to ensure that they are safe for the men and women who fly them.

Senator Fraser: I, too, wish to thank you for this fascinating presentation, which is particularly helpful for a layperson such as myself.

There seems to be much interest in history here. When you were going through the history, one sentence really struck me. It was when you said that the last time out, 10 companies were invited to bid. You said that only two of them bid and that one of them was disqualified because its bid was non-compliant. The Canadian taxpayer, therefore, was over a barrel at that point, with nowhere to go. There was just one happy bidder. That is what happened.

Mr. Williams: What the honourable senator says is correct.

Senator Lynch-Staunton: How do you know? You were not there. You told us you were not there and did not know anything about the matter.

Mr. Williams: That is why I pointed out the advantage and why we are saving so much money today, unlike the previous time when I was not there. However, I am aware that this was based on the developmental product, which is why the cost was so much higher than it is today. The Canadian taxpayer is not bearing those high developmental costs today.

Senator Fraser: I am interested in the process that you have come up with. You tell us it is innovative, and it certainly sounds innovative to someone from my vantage point. All this pre-qualification discussion surely would help to winnow out the non-compliant folks. I was really struck when you suggested that it is a two-way process. Can one have a two-way learning curve? Obviously industry is learning much about what Canada wants and needs, but you said you were learning a lot, too, and that you had found examples of things that you had thought industry could do but rather, to your surprise, it could not. Can you give us an example of the kind of thing you are learning as we go through this process?

Mr. Williams: The big focus on the part of industry is the weight of equipment that they are asked to carry. Obviously, if you ask that the equipment is to have a certain amount of endurance and you ask that the equipment is to carry a certain number of systems, the more weight you force them to carry has a negative effect on their ability to deliver endurance in terms of how far they can go and for how long. We have found, to industry's credit, that it was coming up with better and smarter ways of doing things than we were setting out in our specifications. One small example is that we asked for a certain kind of "sonobuoy." That is a device put into the water to provide underwater radar. We were specifying a certain kind of radar. It was pointed out to us, quite appropriately, that new radars in the marketplace today are 100 pounds lighter. By making modifications without tampering with the statement of requirements, we found out that we could reduce our weight by 100 pounds.

Another more significant area is the section of the statement of requirements that deals with performance at what we call an ISA temperature of 15 degrees. The question then asked is: What happens above that temperature? We have done studies that show our men and women operate in environments of at least

35 degrees approximately 25 per cent of the time. The question was, what kind of performance would be required then?

By going through some operations and doing investigations, we found out that in those environments there are typically 10 knots of wind. If you tell industry that the performance can allow for 10 knots of wind, that is the equivalent of saving them 1,000 pounds on their helicopters. It gives them greater capability to deliver our needs.

Another question is this: For how long would a helicopter be expected to hover in place? By changing the duration from 12 minutes to 20 minutes, you again save hundreds of pounds because there is much less fuel by the time the helicopter is hovering.

We found, from talking to industry, creative and innovative ideas that do not impact, alter or change our statement of requirements but allow industry and ourselves to get on the same wavelength. Therefore, when we do go out with an RFP, we can be assured of a vigorous and appropriate competition. At the same time, in many instances, we would say things and they would be wrongly interpreted.

Senator Fraser: What are they learning?

Mr. Williams: They would, in many cases, take the worst case scenario. In reading a sentence, we would specify one way and say that a certain thing would always have to do something. They would say, "No, just in these circumstances." We then go back and reword the sentence in such a way that there can be absolute clarity. By providing the clarity, we ensure that they are in a better position to decide whether or not they want to bid.

This subject matter is very complex and very technical. Industry wants to get it right, as do we. These many months of discussions, therefore, are really an investment; otherwise, we might find ourselves moving forward with an RFP that once we set it in stone, it cannot be changed. If we then find out that people cannot deliver, we must start from square one.

I think the process has been frustrating for some, but when we talk to the project team and industry, they are supportive of the extensive dialogue we have had.

Senator Fraser: In all these discussions, are we yet at the stage of thinking about regional benefits? Is that part of what you talk to industry about?

Mr. Williams: First, it is Industry Canada's accountability, and they will be coming up with a package that they think is appropriate.

As honourable senators know, under human or internal trade, there can be industrial benefits nationally, but they cannot be specified regionally.

Senator Fraser: I see; but I, as a layperson who does not know better, can say that I certainly hope the regions of Canada will get a good look at this.

Mr. Williams: I think so, and I think industry is pretty smart about all this. While we cannot articulate to experts here and there, as they know what the world is like, in fact, they are aware of our industry competences from coast to coast. Typically, they know what the Canadian government and Canadian taxpayers want.

Senator Fraser: When this is all over and we have awarded the contracts, are we expecting Canadian industry to be better equipped to go out into the export market?

Mr. Williams: One of our prime responsibilities is to facilitate that. There is no question in my mind that by talking to industry, nationally and internationally, our companies in Canada are in a much better position when they successfully compete with us.

I am sure senators are aware that in the last month or so, we received the wonderful news that one of our Canadian companies, the CDC, was successful in winning a \$4-billion communication contract for the United Kingdom. All of the credit goes to them.

• (1630)

They were successful, in part, because they successfully developed a communications system of over \$1.6 billion for the Department of National Defence. Unquestionably, success with us is a key factor in international success.

Senator Fraser: One of you said at the outset that we have a very good record on defence contracting. You also talked about this being an innovative process. Are our partners following your procedures on this deal or is everyone just hoping that this will work?

Ms Billings: There is a lot of interest among our trading partners to share best practices and learn from one another. Therefore, I would be very surprised if our trading and defence partners were not closely watching what we do. Certainly in the area of marine helicopters there is much interest in what we are looking for and the process we are following.

Senator Fraser: Are you exchanging best practices and information as you go?

Ms Billings: It is less formal than that. There are many meetings and conferences and a lot of information. We do not know who goes on our Web site. Anyone can access our Web site to see how we are proceeding. Whenever we start something like this, we talk to other countries. For example, when we did the recent supply chain project for DND, a very large project on the management of their warehousing and inventory system, we went to our major military partners, among others, to find out how they were doing that. We generally try to keep up to date, in both the procurement and defence fora, on who is buying what and how they are going about it.

Canada is unique, though, in that we have an agreement on internal trade that imposes a discipline on the procurement process internally and for the Department of Defence. There is a

requirement to be competitive and more rigorous that our trading and defence partners generally do not have.

Senator Kinsella: I must confess to our witnesses that I am far more obtuse in these matters than my honourable colleagues. I am learning a new vocabulary and trying to follow the acronyms.

I understand that the first government decision to replace the helicopters was taken by the Trudeau government in about 1978. How much taxpayers' money has been spent in the procurement process from then until today? I am prepared to divide the period into two parts, part one being from 1978 until you arrived in your present positions and part two being from then until now.

In part one, inclusive of the nearly \$500 million spent on the cancellation of the contract signed in 1993 and inclusive of all the person years expended on helicopter replacement since you have been in the ministry, has the procurement exercise exceeded \$1 billion so far? If so, by how much have we exceeded \$1 billion?

Mr. Williams: The only numbers to which I can speak authoritatively are those contained in the material we have provided to you. I can only compare the total costs already incurred in purchasing the search and rescue helicopter, including our project team and cancellation costs, with the cost of the helicopter we are about to purchase and with the 1993 one that was cancelled. Those are the only hard figures I have to compare the 1993 expected costs with the amount we currently expect to spend on both the search and rescue and the maritime helicopter.

Senator Kinsella: Your figures do not include the person-year costs.

Mr. Williams: Yes, they do. The project team costs are included.

Senator Kinsella: How much are they?

Mr. Williams: Of the total cost of \$790 million for the search and rescue helicopter —

Senator Kinsella: That is how much has been spent?

Mr. Williams: No. That was the total cost for the whole project, including project costs. If my memory serves me correctly, I believe the project costs of that are about \$200 million. The costs of both of these acquisitions are factored into the costs in the table I have shown you.

Ms Billings: Those costs include defence staff defining requirements and doing technical evaluation as well as procurement staff.

Senator Kinsella: So that is \$200 million plus the \$500 million for the cancellation fees?

Mr. Williams: The \$200 million is part of the cost of the project team currently involved in the acquisition of the search and rescue Cormorant.

Senator Kinsella: Between what dates?

Mr. Williams: From the time the project started, which was probably 1995, 1996 or 1997, until today.

Senator Kinsella: How much was spent from 1978 until 1995? That is the period that would be inclusive of the half billion dollars?

Mr. Williams: I do not have the amount that the Crown may have spent. I can only note that included in the table was \$478 million —

Senator Kinsella: Would it be a fair statement that a lot of Canadian taxpayers' money has been spent so far in the procurement exercise? We have made a major investment in this exercise to date?

Mr. Williams: For sure we are making a heavy investment.

Senator Kinsella: You alluded to the search helicopter. At the time that the government was searching for a replacement for the Labrador helicopter, how many companies competed in the bidding process?

Ms Billings: Neither Mr. Williams nor I were there at that time, but from review of the materials and discussions with others I can say that at that time there was not an agreement on internal trade in place. There was no requirement for the Department of National Defence to compete. The Department of National Defence reviewed the capabilities of various helicopters and components. They had the experience of the competitive process behind them in which only one company had been compliant and the decision was taken to sole source and expand the fleet to 50 EHI helicopters. It was not a competitive process, nor was there a requirement for there to be a competitive process at that time.

Senator Kinsella: On what criteria did the government award the contract to replace the Labrador search helicopters? Was it best value?

Mr. Williams: In 1996-97, when we concluded that competition, that was a best value contract. There were four bidders: Boeing, EH Industries, Eurocopter and Sikorsky. As you know, EH Industries was the winner.

The best value approach was taken at the time for two basic reasons that differ dramatically from today. The first is that there was widely disparate capability amongst very limited competitors. When you have that, then the best value allows you to take the biggest and the boldest, as well as the smallest, and allow them to compete at the same time.

• (1640)

The other key aspect was that the Department of Defence had not, as it now has, clearly and precisely articulated what it wanted. In such a case, you cannot set specific criteria, mandatory or not. What you want to do is let industry bid and,

depending on quote, you make your decision from the highest rated, divided by the price.

Senator Kinsella: As I prefaced my remarks, I am slow at these matters. My notes indicate that four helicopter companies were involved in the bidding, or however these things are done, to replace the Labrador.

Mr. Williams: In 1997, 1998, that is correct.

Senator Kinsella: Thank you. It is my understanding that the Eurocopter Cougar was being considered. If my understanding is correct, why was the Eurocopter Cougar not accepted as the replacement for the Labrador search and rescue helicopter?

Mr. Williams: That was because, in that competition, EH Industries was the winner on the best value approach.

Senator Kinsella: What were the deficiencies with the Eurocopter Cougar at that time that made it unacceptable or more compliant with the criteria used at that time?

Mr. Williams: I would rather focus on the basis, rather than commenting on deficiencies, for particular companies. I would only point out that EH Industries met all of our criteria at the best value approach.

Senator Kinsella: If Eurocopter was not chosen, it would be very helpful to my understanding to ask what was wrong with Eurocopter at that time in comparison with the one that was chosen?

Mr. Williams: I think there are two points. One is that the deficiencies in Eurocopter precluded it from being successful. That goes without saying. There is also the fact that it bears, frankly, zero relationship to today's world. What they bid back then for that helicopter has no bearing on their ability to compete in this one. We are starting from a level playing field and allowing them, through extensive consultations and discussions with us, as all the other bidders have had, to better understand exactly what we want.

Senator Moore: I, like Senator Kinsella, am quite naive in these matters. I am unclear as to the division of work between your respective departments on a project like this. Could you tell me what DND does and what Public Works does? How do you divvy up the decision making and the responsibilities? What are your roles in that process, and what will your roles be when the decision is made? Who looks after the post-decision responsibility and accountability by the successful bidder to ensure it delivers what it says it will do, and that the equipment works like it is supposed to work?

Ms Billings: The two departments do have quite clear and distinct roles. Within the military arm of DND is the total responsibility for defining the operational requirement. We do not even become involved until that operational requirement is approved by the military. Although we might have some discussions informally, that requirement is their responsibility.

When a decision is made by DND to go forward and initiate the purchase, then we will become involved. We will work with DND on whether the statement of operational requirements is easily translatable into the statement of work that will go forward. We decide what the procurement process is, what the options are, how best to develop them, how to deal with the issues of regional benefits, the pricing methodology, the process we will follow, and whether we have a long industry consultation or a short one. We deal with a certain amount of interoperable knowledge, so that we test and challenge each other.

My staff have good knowledge in many of these areas because they buy helicopter and aircraft parts. They deal with the same industry members as DND. They bring knowledge of what is available and how to buy it, and help structure the overall process. National Defence, on its side, also has a lot of experience in our area.

We put teams together, who work well together. At the moment we have a fairly large team on maritime helicopters. We have DND staff who work on the translation of specifications into the statement of work. My staff put together the terms and conditions, run the process, and dealing with overseeing the interaction with industry.

When the bids come in, we will be participating largely with DND in assessing whether or not what has been bid is indeed what was pre-qualified and whether it, as a package, meets the specification. We will provide an oversight function and a fairness function.

On my side of the shop, my staff will then be looking at all of the terms and conditions being proposed by the bidders to ensure we have a robust contract that we can implement. We will then take it through PWGSC and through the approval processes which, in a project like this, will mean going to cabinet and to Treasury Board to get a number of hierarchical approvals to allow the process to be approved and the monies to be spent.

Senator Moore: Who actually issues the bid, Ms Billings?

Ms Billings: We do. PWGSC will issue the formal request.

Senator Moore: It is your department?

Ms Billings: It is my department. It is out of the integrated project team that that bid document will be put forward, and it is to my staff that it will come back in a formal manner, but they operate in a connected manner in terms of the assessment. The roles are defined.

When we move into the contract award, it will again be my staff that will award the contract because the authority will be under the Minister of Public Works and Government Services. A project team will administer the project, with the bulk of the responsibility on DND, but with PWGSC there to ensure adherence to the contract. We go forward with DND working within the confines of the contract, with the successful proponent being kept to the terms of the contract to avoid contract creep. There are always, on projects of this size, a million issues, details and questions, and we will be part of that discussion.

Senator Moore: Once the successful bidder has been announced and the decision is made, is the legal agreement between that party and Public Works?

Ms Billings: Public Works acts on behalf of the Crown, yes.

Senator Moore: If DND notices a deficiency in some component later on, will it come to you, and you will go to the supplier to have the situation corrected? Will DND go directly to the supplier?

I do not understand the split of responsibilities.

Ms Billings: In those types of situations, and they do occur regularly, usually the staff of both PWGSC and DND will work together along the line as the deficiencies are identified. There will be discussion as to how best to identify whether there are tradeoffs within the administration of the contract, the regular give-and-take in managing a large project, or whether it is something where we need to have recourse to a contract amendment, in which case my staff would be more involved. They would be intricately involved in terms of the administration of the contract and the delivery of the goods.

Senator Moore: Mr. Williams, I was interested in your remark. I am from Nova Scotia. I am very interested in the regional industrial benefits aspect of this contract and any contract of the federal government of this size. You stated that the IRB matter is an Industry Canada accountability.

● (1650)

When do they get into the mix? When do they indicate to — and I do not know if it is your department or Public Works — that they want to see the work spread around; that is, certain percentages go to certain areas of the country? When does that happen?

Mr. Williams: Industry Canada is currently involved. Ms Billings' team and my team are working together on the technical specifications and the terms and conditions. They are working in parallel with industry on an IRB package that would be suitable from their perspective. That is happening even as we speak. In the final document, there will be a section that specifies exactly what industry is expected to deliver from an IRB perspective.

Ms Billings: When we went out with the letter of interest in August 2000, there was a section in it outlining the approach on industrial regional benefits. We were looking for IRBs equal to the value of the contract. We indicated that we would be looking for a mix that recognized the Canadian government's goals for regional development. We identified those areas of the country where there is a need for growth and development. The LOI articulated a number of parameters that companies were expected to meet.

There has been continuing dialogue. We had input and feedback from the companies. We are in the process of working with Industry Canada and the industry to ensure that the package that finally goes out with the formal RFP is one that is biddable and that the companies can see themselves doing.

Senator Moore: When the bidders submit their respective bids to Public Works, do they have to indicate in their bids what they see happening in terms of sharing the benefits?

Ms Billings: Exactly. For example, we would expect them to say whether there are components of the helicopter that they will transfer the manufacture of to Canada, whether they will support the development of small business through venture capital and what they will do to insure that small and medium-sized business can bid. We expect them to lay out in quite a lot of detail the names of companies, the amounts and the components.

Senator Comeau: Welcome, witnesses, to our Committee of the Whole. I should like to return to the past. I am not sure if you were in your present positions when the decision was made back in 1993 to cancel the helicopter project. Were you two there at the time?

Mr. Williams: No.

Ms Billings: No.

Senator Comeau: Who was consulted on the decision to cancel the EH-101 contract?

Mr. Williams: Speaking for myself, I was not there. I have no knowledge as to who was involved in that decision.

Senator Comeau: Are you aware whether the military was involved in any way or whether your predecessors were in any way involved in this decision?

Mr. Williams: I am not aware of who was or was not involved.

Senator Comeau: It appears as if the candidate for prime minister of the day simply took a piece of paper one evening and wrote across it in bold letters, "I, Jean Chrétien, cancel this contract."

Mr. Williams: I said that I am not aware who was or was not involved.

Senator Comeau: Have you made an estimate as to the loss, if any, between the previous contract in which the EH-101 was cancelled and the current series of contracts for the Sea King and Labrador replacements?

Ms Billings: We have not done an outright comparison. However, the earlier contract was a more expensive contract. We have excellent industrial and regional benefits with the search and rescue helicopter. They are more than the value of the contract.

Senator Comeau: I mention this because page 11 of your deck states that you will save \$1.3 billion under your current procurement process. You are telling me that you did not calculate the benefits of the previous regional development contracts. How can you compare the two?

Mr. Williams: This is a comparison, apples to apples, on the costs to the taxpayer of the two programs.

Senator Comeau: Hold it. You are spinning this out. Let us forget the spin. Let us go with value to the taxpayer of the previous contract. You are saying that you did not calculate the benefit to Canada under the previous contract, but that you are saving \$1.3 billion.

Mr. Williams: I am being objective and very specific here. I can only give you those costs that are hard and specific. You are asking me to guess what would have been the industrial regional benefits had a contract been put in place and how industry would have benefited. I do not know the answer to that question.

Senator Comeau: They were there as part of the record. They were there when a certain individual one evening in the midst of an election campaign said, "I will cancel this contract." If you are comparing apples to apples and oranges to ducks, then you have to start with comparable levels. What you are suggesting is you did not do it.

Mr. Williams: No, I do not think so. I think that I am doing exactly what I should be doing, which is reflecting to you the different costs to the taxpayer. What you are talking about are industrial and regional benefits. Absolutely, there may have been some, but that does not take away from the point that in terms of what the taxpayer would have had to spend, this is what we are reflecting before and after.

Senator Comeau: You are sensing that I am somewhat frustrated. My understanding was that this afternoon we would have witnesses before us who would be able to help us understand what led up to the cancellation of the EH-101 contract in 1993, the subsequent hundreds of millions of dollars that were spent, and the delays in acquiring both search and rescue helicopters and shipborne helicopters, something which affected the region that I happen to think very highly of — that is, the maritime region of Canada. We wanted someone here today who could answer our questions. What we have, I think, are two technically efficient individuals. I was not looking for purchasing agents. I was looking for the people who made the decisions so that they could help us understand what led up to this situation.

Senator Robichaud: Madam Chairman, this is very unfair to the witnesses.

Senator Comeau: Madam Chairman, we have to pursue this matter further. We were not looking for highly impressive, technical, skilled people, which you are. I happen to agree that you are. However, this is not what we were looking for. I think we will have to come back to this.

I see that I am raising the ire of a few hecklers in the background. If you watch the muppet show, they usually hang from the balconies, but here they are not.

Senator Graham: The truth is tough sometimes.

Senator Comeau: I want to come back to page 11. Did you compare at all the technical requirements of the former EH-101 contract with this current contract? I am talking about the distance the helicopter can fly, for example. Have you placed a cost estimate in there, or did you just compare apples to ducks or apples to oranges?

Mr. Williams: I compared apples to apples. As I said in my comments, the one constant, the one benchmark was the reality of meeting the capability back in 1993 as compared with meeting the capability today. When you look at it from that perspective, the taxpayer will be able to save \$1.4 billion, plus or minus.

Senator Comeau: Hindsight is great.

Mr. Williams: This is not hindsight; this is foresight.

Senator Comeau: We can go back and compare what you compared in the past and say, "Look, September 11 changed all this. Look how bright we are to be able to make decisions today that will affect the next 15 years."

• (1700)

Why do we not postpone the helicopter purchase for another 25 years and see what great decision we make in 25 years? That would be using your logic.

Does the search and rescue helicopter, which is to be delivered soon, have the same distance, instruments and flying capabilities that the previous EH-101 had?

Mr. Williams: I cannot comment on what the EH-101 had or did not have.

The relevant point is that the search and rescue Cormorant helicopter, two of which have been delivered and the rest should be delivered by the end of 2002, meets exactly the specifications of the forces.

Senator Comeau: That is not what this afternoon was to be about. I do not know who arranged this session. We are not getting the answers that we had wanted or needed.

Senator Carstairs: Point of order. We must be clear here. I was asked a very specific question in June which was: Would you have a Committee of the Whole on the procurement strategy for the Maritime helicopter project? This afternoon we are having an excellent presentation on the procurement strategy for Maritime helicopters.

Some Hon. Senators: Hear, hear!

Senator Carstairs: Madam Chairman, it is extremely unfair to the witnesses to ask them to go beyond what this Senate decided in a motion passed in this room on what we would do this afternoon.

Senator Comeau: I am not sure that I understand the point of the leader on the other side. We are trying to get to the bottom of

this question in order to be able to make decisions in future on behalf of the Canadian taxpayers. On a number of occasions earlier, Mr. Williams mentioned that we want to get best value for Canadian citizens.

If a decision were made in 1993 to cancel a huge contract out of the blue, we should be able to go back in time and find out what happened. We should be doing that. We owe it to the Canadian taxpayers not to stick to what the leader on the other side claims to be a very narrow procurement agenda.

Senator Lynch-Staunton: You were offered military witnesses.

Senator Comeau: Why can we not get to the bottom of these issues? What is the other side trying to hide? Open the book.

Senator Robichaud: We have nothing to hide.

Senator Comeau: I have made my point.

The Chairman: The Honourable Senator Wiebe.

Senator Wiebe: I want to say initially that I have certainly appreciated your presentation this afternoon because you are doing exactly what this chamber has requested, and that is to provide an explanation of the procurement process for the purchase of helicopters.

I have realized that it is certainly considerably more difficult to purchase helicopters than to purchase a tractor or a combine, in my case. I am hoping that the people throughout Canada have had an opportunity to listen this afternoon because they will understand that the purchase of something like this is certainly much more complicated than the purchase of a car or a home.

Many questions have been raised this afternoon as to why the Prime Minister cancelled the order in 1993, and why it is important to talk about that. In answer to those questions, if the members opposite will remember, the purchase of those helicopters became a very important issue during the 1993 election campaign. The people of Canada, the taxpayers of this country, instructed the Prime Minister of this country to cancel the purchase of that aircraft. That is exactly why it happened.

Hon. Senators: Hear, hear!

Senator Wiebe: I know sometimes, honourable senators, that it is difficult to accept rejection. Keep in mind that, in the 1996 election, the party that had become a little bit more than a blip on the political radar screen of this country attempted to raise that issue again. Once again, the electorate of this country said, "No." During the last election, they again tried to raise the helicopter issue. Again, the taxpayers of this country said, "No."

The presentation that you have given us today will certainly throw a tremendous amount of light on the complicated nature of this issue.

If I may, I would like to go to slide 13. You mentioned that this procurement policy is going to reflect terms of the Agreement on Internal Trade, AIT. In those comments, you mentioned something about this agreement allowing you to purchase replacement parts and other things once the decision has been made on the helicopter. However, I understood from your remarks that, because of that agreement, you may be precluded from purchasing helicopters in the future. If your initial decision is to purchase 20 helicopters, and a year later you decide to purchase another 20 helicopters, does that mean that this entire process must be repeated with the same costs involved?

Ms Billings: Essentially, the Agreement on Internal Trade says that we can go sole source to a provider, if we have reason for maintaining inventory, if there is some reason of commonality of maintenance or reason to ensure compatibility with the existing products.

Let us assume that we were going to buy spares or parts to support a helicopter. If we were going out to buy one item, we would likely have a case within the Internal Trade Agreement to argue justification of sole sourcing. If we were going out to buy 20 items, it would be reasonable to say that that is a new buy. That order is big enough to be considered a new purchase and a new opportunity. If there are efficiencies to be made from having more of the same, then the supplier of that particular product can make that case through bidding a lower price, and it could be the winning bid.

It is one of the more complex areas of the Agreement on Internal Trade. It is one where the division between what is suitable grounds for allowing us to go forward on a compatibility basis on a sole source, and what becomes a new purchase and a new opportunity for industry is quite grey. In some areas, it is easy to define, and in others, it is difficult.

For example, when we are buying software and computer products, it becomes very difficult to determine that which can be sole sourced on a justifiable basis in order to match that which we already have. In the case of a department that uses Word as a word processing suite, can we buy more on a sole source or do we have to buy competitively?

We have been struggling with these issues in that sector for some time. Certainly, it is a decision point that becomes one of judgment and one where we have many litigation and judicial examples to follow.

Mr. Williams: The thought of having to get another 20 helicopters is a most sobering thought. I hope that I do not have to go through this a second time.

• (1710)

Senator Wiebe: It is expensive to go through this a second time in the event that more helicopters are needed. Does not accountability have a tremendous amount of importance? If you are going to buy 20 more helicopters, I am just using that as a figure, do you not want them to be compatible with that which you have already? Why should all the service people be retrained? Would that not, of itself, overrule some of these trade irritants or trade requirements?

Mr. Williams: There was a great deal of discussion, as you will see if you read the statement of requirements. There is a great deal of information on the numbers. This process is not precise. In planning for 28 helicopters, we feel that we have allowed for attrition. We have done many operational research studies and are confident that when looking over the next 25 years, with increased emphasis on front-end training and using simulators, we will have an attrition rate of four or less.

With that in mind, we think that we will have the right number of aircraft. The question then becomes: Will the aircraft have the appropriate system configuration? By bundling 20 years of lifecycle support, we are doing our best to get enhancements and changes and advancements to the software as applicable.

We hope to keep these aircraft as current as possible. The process is not precise. It is time-consuming process, so we want to get it right the first time if we can. When we balance the needs of the forces with the available budget, we think that we have come up with the right balance.

Senator Wiebe: Basically, you are dealing with attrition from a peacetime point of view. These helicopters could have been used in a time other than peacetime. In the event that the attrition rate is higher than suggested, can you not write into the contract the provision of more aircraft so you could avoid this whole process again?

Is there a war clause or a replacement clause? Why go through these time-consuming and expensive processes again to replace what we may need in a hurry?

Ms Billings: As Mr. Williams mentioned, the decision on how many aircraft to order was not worked out on the back of an envelope. It took much analysis and assessment and many challenges within DND and on our part to get that number. If DND were to come forward even now and say that there is an assessed need for more, we would seriously look at building that into the tender we are about to put forward to competitors.

We have not been in a peaceful period over the last 20 years either. Our forces have been on peacekeeping missions in various danger spots with their helicopters, and those experiences were factored into the number that Mr. Williams came up with and the number that DND put forward to us.

Senator Oliver: My questions to the two witnesses deal with their role in the development of the procurement process. Earlier today, in your opening remarks you talked about the best-value approach dealing with lowest price, technical merit, quality and so on.

Before I get into my questions on that matter and on the roles of the maritime helicopter, particularly shallow-water surveillance, tell me about the team that you two represent. Specifically, what is the training of your team? Do you have people who have studied physics, aeronautics, accounting? What is your own background? Are you two the team leaders of the Maritime Helicopter Project? Do you have an outside advisory committee and, if so, who would be on that external advisory committee? What types of people do you have and how often do you meet? Is this your full-time job?

Mr. Williams: I am the assistant deputy minister for materiel for the department. I am responsible for the acquisition of all the goods and services for the military. This is just one of the procurements. I also have international responsibilities with respect to NATO and industry responsibilities as well. This is one of many key files that I look after.

I do have a project leader who is sitting up in the gallery with a big grin on his face. He is one of a project team consisting of 80 people from the Department of National Defence.

Senator Forrestall: Could you tell us what he is laughing at?

Mr. Williams: He is always smiling. He is a happy person.

Our team has 80 people from the Department of National Defence, about 25 people from Ms Billings' department and 25 to 35 consultants. These people come with a broad range of experience. Ms Billings can tell you more about her people, but they are clearly experts in procurement and have good technical knowledge because they have been involved in the business.

Senator Oliver: Are those consultants internal or external?

Mr. Williams: Those are external consultants.

Senator Oliver: Are they all Canadians?

Mr. Williams: They are Canadian consultants from different Canadian companies. In addition, our team members have experience in aeronautical engineering, in systems support, in logistics and training simulation — all the different skills and operational requirements. The vast majority are military, so it is a cohesive team that is trying to move the files forward.

Ms Billings: This is just one of my responsibilities. I am responsible, as the assistant deputy minister, for supply operations, for the purchase of goods and services for the entire federal government over certain levels of delegation. As well as procurement, I have a responsibility for asset disposal, for seized property, for the Canadian General Standards Board, and a number of other activities.

Like Mr. Williams, I have a project leader who is also with us today. He is very experienced in complex procurements with a financial background. He is also a pilot, so he brings an avocation to what he does.

Senator Oliver: What is his name?

Ms Billings: Michel is up in the gallery at this point. He has a very experienced team of procurement officers, including specialists and schedulers in project management, in contract management, in terms and conditions. We have legal advisers as well.

My procurement staff go through a fairly intense training process over two years, and they gradually go on to more complex projects. Michel is one of our more experienced project managers. We have a highly qualified team working together with the consultants that we have brought in.

Senator Oliver: Do you have an outside advisory team apart from these consultants?

Ms Billings: We have a number of outside advisory bodies. We have what is called SPAC, a supply/procurement advisory committee, made up of advisers from across government who bring to bear knowledge of the commodities, the procurement processes, knowledge of the environment we work in, legal issues, and also of the industrial situation. They meet on a periodic basis to advise on key aspects of the procurement process. We also have a number of internal checks and balances as we go forward.

Senator Oliver: In response to questions from two of the senators on this side, Mr. Williams in particular made a great to-do about the fact that things have changed because there is one brand new factor in the procurement requirements for the maritime helicopter role. Mr. Williams said very proudly that we are now dealing with shallow-water surveillance, which completely changes the look and character of this procurement process.

Give me details. What is so unique about shallow-water surveillance? How does it strategically change the procurement of these helicopters? What are the major components of shallow-water surveillance?

Mr. Williams: I emphasized that part when I dealt with the slide regarding roles. Of the different roles shown, that particular one is different from the previous time.

Senator Oliver: You said it was new.

Mr. Williams: Yes, it is new.

Senator Oliver: That is what I am asking about. You said it was new. What is so new about it? How does it change the strategy?

Mr. Williams: Ten or fifteen years ago, as we discussed here earlier, in the Cold War environment, our navy was basically constructed for open-water accountability and responsibility in terms of surface and subsurface surveillance, detection of threats such as submarines, in the middle of the oceans.

Today, we also operate much closer to the shorelines. That presents different threats. Those threats require us to more clearly articulate different measures to address those threats in our statement of requirements.

• (1720)

My point is not that submarines are no longer a threat, it is that there are threats on the shorelines that you do not find in the middle of the ocean.

Senator Oliver: Like what?

Mr. Williams: You can be shot at by rifle fire and other armaments from a land base, so we are equipping our submarines with machine guns that they did not have before and that were not in the previous specifications.

Senator Oliver: Please give me other examples. How much, in monetary terms, does this grand new item you call "shallow water surveillance" mean to the procurement contract? Will there be hundreds of millions of dollars of necessary changes as a result of this new system?

Mr. Williams: It is important to distinguish my comment, which was to point out the new environment, from the overall approach of developing the statement of requirements. The statement of requirements was developed from scratch by the military looking at the environment as it pertained to today and to the future. That requirement is reflected on our statement of requirements, which has not been changed. Ms Billings and I have been moving this forward in terms of the procurement strategy that we thought best reflected the best practices of the day. We have reviewed those and we have discussed them with you.

Senator Oliver: I understood that. However, I was asking only about the shallow water surveillance system. You made such an enormous point of it when you indicated that things are different now than they were in 1939 because we have this grand new system called shallow water surveillance and all of the strategies and the design of these new helicopters have to change dramatically. How much, in monetary terms, will this mean?

Mr. Williams: I did not stress it so much. I was pointing out the difference, period. That change, along with the other requirements, is what we are putting forward to industry as a package to try to meet our needs. That is my only point.

Senator Oliver: Am I to read from that that it is not as big a point as indicated earlier?

Mr. Williams: My point has not changed. It is a significant difference from before, and I wanted you to be aware of it.

Senator Oliver: The biggest difference is that you can be shot at from shore.

Mr. Williams: The biggest difference is that you have different threats and you have to accommodate those threats.

Senator Cordy: I would like to thank the witnesses who are appearing before us today to help us work through the procurement process. As Senator Wiebe said, it is a complex process indeed.

I am also from Nova Scotia and I would like to follow up on something that Senator Forrestall mentioned — the Sea King helicopters. In Nova Scotia, there has been a great deal of discussion about the Sea Kings and a wide variety of views have been expressed regarding the endurance of the maritime helicopters and their range. Would you elaborate on the endurance and the range of the Sea King helicopters, since we will have them for a few years?

Mr. Williams: There has been much confusion and misunderstanding about that. The Sea King, as it is configured today, can have endurances in the order of two to three hours. That is how we expect it to perform in its current application in

operations. There has been much discussion about the endurance, and much of it has been centred around comments, improperly taken out of context, to the effect that: If you were to take the existing Sea King and try to put on it all of the systems that we are now expecting to put on our new helicopter, what would be its endurance? In such a case, it would be minimal.

However, we are not doing that. We have taken the existing Sea Kings, and equipped them with upgraded engines and gear boxes. We have installed 7.6 millimetre machine guns. We have also equipped them with infra-red radar to deal with missions on the gulf. We expect them to have endurance of two to two and one half hours or more, as did the HMCS *Charlottetown* in the first six months of this year when it operated in the Persian Gulf.

Senator Cordy: They are able to deal with the rapidly changing environments, which they will face in the North Atlantic.

Mr. Williams: There are search and rescue, logistics and surveillance. While they may not have the most sophisticated and up-to-date equipment, we feel comfortable that they can do the job asked of them at the present time.

Senator Cordy: The split contract allows Canadian bidders to bid on the mission system, which is a great thing. Who will be ultimately responsible for ensuring that the mission system works with the helicopter frame?

Ms Billings: We are putting the responsibility for delivering us a final integrated vehicle on the mission system integrator. We are asking them to enter into an agreement with the helicopter manufacturer — whoever wins the vehicle competition — whereby they will work together with the mission system integrator as the prime.

Senator Cordy: Your delivered product will have to be meshed together.

Ms Billings: Yes. We are asking them to jointly establish and maintain an interface working group, an interface agreement and an implementation agreement for the purposes of managing and controlling the interface between the helicopter and the mission system provider.

Senator Cordy: Mr. Williams, you talked about a full life cycle cost. To the lay person, would that mean a stem-to-stern warranty?

Mr. Williams: That is a good analogy. We want to hold the winner of each part accountable for that part throughout the life cycle. This would then preclude someone who was there only to win in the short term from putting in less than quality parts to keep the bid low, and then not having any accountability for replacing those parts for the next 20 years.

If you know that you will have to replace those parts, and if the total cost will be assessed, you will likely deal with quality in at the front end to ensure over the long term that you save money. It is the long-term approach that we believe is the smart business practice.

Canada has an advantage in that way. In many other jurisdictions, accountability for defence acquisition is separate from defence support. We are fortunate in that we bundle these things together. We find that it helps us in the same way that working with Public Works helps us. In so doing, we can keep the accountability clear and focussed to achieve taxpayer savings.

Senator Cordy: This results in a higher quality, because the people know at the outset that they are responsible for the running of the equipment for a long period of time.

Mr. Williams: That is our hope.

Senator Cordy: Some of the contenders for the helicopter program talked about two engines and some have talked about three engines. Is there a difference? Is the two-engine system not as good as a three-engine system?

Mr. Williams: The easiest explanation is to say that none of our specifications mentions whether two or three engines are necessary or mandatory. Some competitors have three, and some have two. We are focussing on our performance requirements. As long as they meet those requirements — there is one requirement that involves one-engine-operable — we are not concerned whether the winning bidder has two or three engines. That is a crucial point.

[Translation]

Senator Nolin: Mr. Williams, how long have you been with the Department of National Defence.

Mr. Williams: Two years.

Senator Nolin: In the position you now occupy?

Mr. Williams: Yes.

Senator Nolin: Where were you before?

Mr. Williams: At the Department of Public Works.

Senator Nolin: How long did you stay with that department?

Mr. Williams: Four years.

• (1730)

Senator Nolin: And where were you before that?

Ms Billings: At the Department of Public Works, but as CEO of audit services and assistant deputy minister of the group responsible for strategic projects and policy of a Crown corporation.

Senator Nolin: Who decided that each of you would be here today?

Mr. Williams: We thought that we would be in the best position to answer your questions.

Senator Nolin: How were you informed that the Senate requested your presence?

Ms Billings: The invitation was sent to our department. Our deputy ministers decided that we were the persons best able to answer your questions satisfactorily.

Senator Nolin: Did you talk with a minister or political assistant before appearing before the Senate?

Mr. Williams: No, senator.

Senator Nolin: No to both?

Ms Billings: I had a meeting with my minister yesterday, but he did not give me any instructions regarding my appearance.

Senator Nolin: Now, let us examine your slides. One of you could answer the question. I am looking at Slide No. 6. What are the functions of the search and rescue helicopters?

Mr. Williams: The helicopters we purchased have three functions: support, above-water surveillance, and underwater surveillance.

Senator Nolin: I will try to be more specific. Slide No. 6 refers to a maritime helicopter procurement process. Your predecessors have already acquired 15 search and rescue helicopters. What are the specific functions of search and rescue helicopters? In other words, I want to compare your Slide No. 6 with a similar sheet for the purchases you have already made.

Mr. Williams: The search and rescue helicopters must be used in Canada. That is their primary function.

Senator Nolin: Could you elaborate a bit? What is done outside Canada?

Mr. Williams: Today, the topic is maritime helicopters. All these functions apply to maritime helicopters. The 15 helicopters we have already purchased look after rescues in Canada.

Senator Nolin: How are they different from these?

Mr. Williams: You can see here the many functions of the helicopters we will be buying.

Senator Nolin: Would it be possible to send us a similar sheet for the search and rescue helicopters?

Mr. Williams: Absolutely, and it is a lot easier to understand.

Senator Nolin: It will be easier to compare Slides Nos. 6 and 7, the operational requirements of search and rescue helicopters compared to maritime helicopters.

Mr. Williams: The two helicopters are totally different and have totally different functions. This is the real reason for the two separate purchases.

Senator Nolin: I understand all that. I just want to compare oranges and oranges. Could you prepare slides for me or a sheet of Nos. 6, 7, 8 and 9 specific to the search and rescue helicopters so I can compare the two?

Madam Chairman, I would like to introduce the following motion, seconded by Senator Comeau. I move:

That the Committee of the Whole report to the Senate that it requests to meet on one or more additional occasions in order to hear from the following persons:

The Honourable Arthur Eggleton, Minister of National Defence; the Honourable Alphonso Gagliano, Minister of Public Works and Government Services; Lieutenant General George MacDonald, Vice Chief of Defence Staff; Lieutenant Colonel Wayne Smith, Maritime Helicopter Project Office; Colonel (Retired) Lee Myrhaugen, Coordinator of Friends of Maritime Aviation; Mr. Peter Smith, President, Aerospace Industry Association of Canada; and Brigadier General (Retired) Jim Hanson, Canadian Institute of Strategic Studies.

[English]

Senator Taylor: You pretty well have the whole regiment.

Senator Forrestall: So great has your obfuscation been that we need all these people.

[Translation]

The Chairman: Do you have a copy of the motion, Senator Nolin?

Senator Nolin: Yes, Madam Chairman.

The Chairman: Honourable senators, Senator Nolin moves:

That the Committee of the Whole...

Hon. Senators: Dispense!

The Chairman: All those in favour of the motion will rise.

[English]

Those who are opposed to the motion, please rise.

Those who wish to abstain from the voting, please rise.

Dr. Gary O'Brien, Clerk of the Committee of the Whole: Yeas, 14; nays, 34; abstentions, nil.

The Chairman: I declare the motion lost.

[Translation]

Senator Nolin: I would like this to be very clear between us and the witness. You will provide us with four additional sheets so we may compare them?

Mr. Williams: Yes, Senator Nolin.

[English]

Senator Buchanan: I also wish to thank our witnesses for being here, but I have a suspicion they wish they were not here.

Mr. Williams: We are always happy to be involved in the democratic process.

Senator Buchanan: I do not know how democratic this process is. I really do not. I have been around a long time, and this is the most intriguing situation I have seen in 34 years. I am not faulting you or Ms Billings, because you were probably told to be here.

It is interesting to find out from you all about procurement, but I want to know about what happened back in the late 1980s and the early 1990s with the procurement process that was used then, which was so much different than the procurement process you are using now.

I find it intriguing that all I know about the Sea King helicopters is that they fly over my house in Halifax all the time, except when they are down because of mechanical failures, which has happened many times over the last number of years.

I want to know how the Honourable Prime Minister, when he was Leader of the Opposition, was able to go through the whole procurement process of the late 1980s up to 1992 and make the decision that he must cancel the contract because he wanted a new procurement process. That was nonsense.

• (1740)

You will not say it, but you know that it was nonsense. I want to know why the contracts were cancelled in 1993? What military advisers advised that the contract should be cancelled? Did those military advisers agree with what you have said today, that the terms of war have changed so dramatically from 1989 to 1992 that they had to cancel the contract in 1993? The only change I can see are the tragic events of September 11 and the Afghanistan situation, which I do not think the Prime Minister, when he was Leader of the Opposition, could foresee happening nor could the military advisers. As far as shallow-water surveillance is concerned, I have never heard such nonsense in my life.

Go to Shearwater or to Halifax and ask the retired military people what they think of that, and I believe they will tell you.

Senator Graham: Take slide 11 with you. There is truth.

Senator Buchanan: I see. It does not really matter that for years helicopters have crashed and people have been killed. Helicopters have crash-landed and been dumped at sea. Does that not matter? I think it matters greatly, and it matters greatly to the Canadian people.

I should like to know if you are serious when you say the contract was cancelled in 1993 because the terms of war had changed so dramatically.

Mr. Williams: I believe I said this before: I will not comment; I do not know. I was not party to and I was not there when the contract was cancelled. I certainly did not suggest the reason it was cancelled was because of the change in the shallow-water surveillance. My point was that I am reflecting a difference in the environment today compared to back then. I am not making any connection between that and the cancellation.

Senator Buchanan: I am not faulting you. Are you saying that DND officials, the military back in the late 1980s and the early 1990s, were all wrong when they recommended the EH-101s?

Mr. Williams: My comment was and remains that I was not there at the time, and so I will not comment about anything that happened prior to my arrival on the scene.

Senator Buchanan: You and Ms Billings have made mention of people in the gallery, who I have no doubt are fine people. Why are those people not here helping you today? I have no doubt that many of them were here in the late 1980s, early 1990s, and could answer the questions for us. Were any of those people in the gallery present in the late 1980s and the early 1990s and involved in the procurement process of the 1980s and the early 1990s?

Mr. Williams: I cannot answer that. I am not sure when they were or when they were not there.

The Chairman: Order please.

Senator Carney: Mr. Williams and Ms Billings, I wanted to pick up on one of your answers. I have been a minister in three portfolios. If one of my top officials was going to testify on a very sensitive file before Committee of the Whole in the Senate, I would certainly want to know what they were doing and what they would say. Otherwise, I would consider that I would not be doing my job, nor would the official be doing hers or his.

Mr. Williams: when you say that you did not discuss this, what did you discuss and why would you not discuss this issue with your deputy or your minister?

Ms Billings: As I answered, I indicated that I had met with my minister, who was fully aware of the fact that Mr. Williams and I would be here today. The discussions between my minister and me are in fact privileged.

Senator Carney: They may be privileged but so is the role of the Senate. I do not recall ever counselling an official of mine that they could not discuss an issue with the Senate. I never remember doing that.

Ms Billings: We have been fully open to all the questions that have been asked. We have been fully open to answer the questions that have been in our purview to answer.

Senator Carney: Can you explain why you would not have discussed this with your minister?

Mr. Williams: what was your position? Would you actually go and booby trap them on an issue like this, which could happen?

Mr. Williams: My minister was comfortable that I would not do that and that I would speak openly and fairly. That is what he expected me to do and that is what Ms Billings and I have done.

Senator Carney: Is that what you discussed with him?

Mr. Williams: I did not discuss anything with him. I believe he has confidence in me.

Senator Carney: I am sure that confidence is well placed with your appearance here.

The question I want to ask deals with the procurement. Since one of my positions was President of the Treasury Board, I know that this is an extremely difficult and complex issue. The government has held up the Canadian search helicopter project, which led to the Cormorant, and I am grateful that two of them have been delivered. I understand that they are on the West Coast. Why has the government abandoned that process for the Maritime Helicopter Project, if it was such a model and so effective? It certainly made me happy to see those helicopters delivered to the West Coast? Why was that process changed?

I am not interested in shallow-water surveillance. You have answered that question. I am not asking you a question about that.

Mr. Williams: From my perspective, each procurement is different. What we are buying today is a different good or product than what we were buying before. The environment is different; our specifications and budgets are different. To suggest that because we did a procurement one way we ought to continue it is not the right approach.

Ms Billings and I challenge our people to do things better than yesterday, as people will challenge them today to do things better tomorrow. The revolution in military affairs demands that we do things differently. We are trying to work more closely with industry to get it right. We are trying to put in best practices that were not there before. This is expected of us, not simply to say that because we did something one way before we ought to do it the same way today.

Senator Carney: On slide 12, , one of your procurement objectives is to comply with legislative and government contracting policies. Treasury Board requirements are not ad hoc. You cannot just change your procurement policy and Treasury Board does not change its policies. I do not think you have adequately answered my question. You are suggesting that you did it one way here and then you decided to do it that way. There are guidelines, contracting policies and legislation. Why did you change from one to the other? Maybe you had good reasons, but what were they?

Ms Billings: Every project is quite different, and even though the earlier project dealt with helicopters as well, they were different helicopters and the times are different. We followed the Treasury Board contract guidelines and the government contracting regulations in each case. The regulations give much latitude for our ability to structure a process in terms of the methodology, the approach, the types of criteria that we will use, the process we will follow, as long as we follow the fundamentals of being fair, open and equitable and as long as we are competitive and do not provide biased specs. We must treat all bidders equally and set our process out fairly and follow it, as we did in the case of the search and rescue project and as we intend to do in this case as well.

Senator Carney: Have you tabled those Treasury Board guidelines? Can you give us the guidelines for our assessment?

Ms Billings: The guidelines are in the public domain. They are on the Public Service of Canada Web site. Essentially, we are governed by the Financial Administration Act, which states that the government can stipulate regulations. Then we have the government contracting regulations, which outline a high level of policy and essentially state that we will compete, except in certain circumstances. The Treasury Board has its contracting regulations which start with a policy statement to the effect that we will provide open, competitive procurement processes, and then it outlines those cases in which we can deviate from a competitive process. It then goes further in terms of defining some of the applications. Those are all in the public domain.

• (1750)

Senator Carney: May we access them?

Ms Billings: Yes.

Senator Carney: You are saying that you were in total compliance in both cases with these guidelines. Mr. Williams, can you comment on this?

Mr. Williams: Yes. At the outset, one of the senators asked, and we did not have an opportunity to answer, why we are going with the lowest price compliant rather than with the best value. That is one of the key differences. I think that, if we had gone best value rather than lowest price compliant, we would be criticized much more. I find it surprising that it is perceived to be bad that we are spending no more taxpayers' money than we must. We are ensuring that we get exactly what we need. This is not a cheap helicopter. It is going to cost billions of dollars. It meets our needs. The fact that we can buy something that meets our needs and not spend more money, seems to me to be a good thing rather than a bad thing. Yet people are suggesting that going best value, which would likely cost taxpayers tens of billions of dollars more for things that we do not need, is a better

way to go. We can certainly use that extra money to procure many other things for the men and women in the Armed Forces.

Senator Lynch-Staunton: I want to question some of the figures provided on Slide 11.

In the fourth column, entitled "Combined SAR/MHP" there is a total of \$4,367 million. Is that in current dollars?

Mr. Williams: That includes inflation.

Senator Lynch-Staunton: What is the actual cost today?

Mr. Williams: We expect to spend \$4.26 billion.

Senator Lynch-Staunton: Have you factored in inflation?

Mr. Williams: Yes.

Senator Lynch-Staunton: What inflation factor did you use?

Mr. Williams: I do not know the exact percentage, but I can get that for you.

Senator Lynch-Staunton: It should be noted here that the figure has been adjusted for inflation.

Mr. Williams: It is an inflation-to-inflation comparison.

Senator Lynch-Staunton: I know that it is, but it does not say that.

Mr. Williams: That is what the words "budget year" mean, but it should have been clearer.

Senator Lynch-Staunton: We speak basic English here, not bureaucratic English.

Some Hon. Senators: Oh, oh!

Senator Lynch-Staunton: I do not care whether the comparison is favourable or unfavourable to one party or another. The point is to get the best equipment we can within our means.

Some Hon. Senators: Hear, hear!

Senator Lynch-Staunton: It would have been more accurate to include in the comparison the fact that then prime minister Campbell decided to reduce the number of helicopters from 50 to 43. You are showing figures for 50 helicopters. I fault you for that because, had the Conservatives been re-elected, the contract would have been renegotiated to 43. I do not care who looks better as a result, but it would have been more accurate to have done it that way, which would have shown an overall reduction of 16 to 20 per cent.

I would like you to introduce a table calculated in that way.

Mr. Williams: The difficulty with doing that is that no costing was done at the time as to what the cost differential would be. I was trying, in the most objective way possible, to use numbers that cannot be disputed. It is fine to suggest going from 50 to 43, but the implications of that were never costed.

Senator Lynch-Staunton: The briefing notes from the Department of Defence at the time show that there might have been a saving of \$1 billion.

Mr. Williams: That analysis was not done. It was just a hypothetical number thrown out as an example. There was no justification or basis for that number.

Senator Lynch-Staunton: You agree that you are comparing 50 helicopters when, had the government been re-elected, it would have ordered only 43. Therefore, the comparison should be based on 43.

Mr. Williams: I am basing it on what in fact happened, not on what may have happened. There are many differences, as I said at the beginning. The numbers are different; what we are buying is different; and the world is different. My point is very simple: We are saving between \$1 billion and \$1.5 billion for the same capability.

Senator Lynch-Staunton: If everything is different, your comparisons are worthless.

Mr. Williams: The key item that is not different is the capability.

Senator Lynch-Staunton: The world is different; the helicopters are different; the situation is different; the water is shallower, but you are going to make comparisons.

Mr. Williams: Yes, I am, because the capability for the helicopters has not changed.

Senator Lynch-Staunton: The frigates are going into shallow water.

Senator Carstairs: I move that the Chairman do now leave the Chair.

The Chairman: Will those in favour of the motion please rise?

Will those opposed to the motion please rise?

Will those who wish to abstain please rise?

A Clerk at the Table: Yeas, 48; nays, 3; abstentions, 0.

The Chairman: I declare the motion carried.

The Hon. the Speaker: Honourable senators, the sitting is resumed.

BUSINESS OF THE SENATE

Hon. Noël Kinsella (Deputy Leader of the Opposition): Honourable senators, on a point of order, we are approaching six

o'clock. The opposition would be agreeable to not see the clock, if the government is so inclined.

The Hon. the Speaker: Honourable senators, is it your wish that we not see the clock?

Hon. Senators: Agreed.

IMMIGRATION AND REFUGEE PROTECTION BILL

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cordy, seconded by the Honourable Senator LaPierre, for the third reading of Bill C-11, respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, we were at third reading debate on Bill C-11 when we broke for Committee of the Whole. I just want to make a few comments on the bill, after which I know my colleague Senator Andreychuk will make more substantive comments.

I want to draw the attention of honourable senators to the concern that Canadians have under the circumstances that flow from September 11 as it relates to our immigration bill. Honourable senators, members on this side of the chamber are concerned that the Canadian immigration law be fair and continue to be inviting to the thousands of individuals who come to our shores, as has been the history of this great land of ours. They must know that we welcome them. They will come from all corners of the earth. Given the experience of the past number of years, a large number, perhaps the majority of those who come as landed immigrants, will be coming from Asia and not from what some observers describe as traditional source countries for immigrants to Canada.

It is important that our immigration law, as all law in Canada, recognize that even in times of stress, which has been the circumstance since September 11, we not lose the fundamental principles of equality and human rights that have always influenced our welcoming of new Canadians through the Immigration Act.

That point having been made, on the other hand, there are concerns that international terrorists, some of the players, will use in an ill-willed fashion the immigration laws of whatever country. That includes Canada.

I was impressed the other day with the evidence of Mr. David Matas, who was a witness before the Special Senate Committee on the Subject-Matter of Bill C-36. He made the very strong and clear recommendation to the special committee that the definition of "terrorist activities" contained in Bill C-36 should be placed in Bill C-11. That is an extremely important consideration. It would have been helpful for senators if the importance of that recommendation could have been canvassed with the Minister for Citizenship and Immigration, had she appeared before that special committee so that the issue could have been studied.

As honourable senators know, the excellent report of the Standing Senate Committee on Social Affairs, Science and Technology under the leadership of Senator Cordy and Senator Di Nino pointed out a number of concerns that members of the committee had with the bill. However, on this particular point, the suggestion is that regulations will deal with the definition of "terrorist activities" within the context of the Immigration Act.

Frankly, honourable senators, it seems to me that under the circumstances we are in these days it would be far better for us to pause for a few moments — for a few days or a few weeks — to consider whether or not we ought to move such an amendment, at least put into the act that which the Government of Canada has accepted as a principle having placed it in Bill C-36. There is one reference in clause 128 of Bill C-36, I believe, which speaks to the immigration bill. I think this amendment in particular would be well accepted by Canadians who are watching closely what Parliament is doing.

Honourable senators, our principal concern with the bill is that we take our time and consider whether or not it would be in the best interests of Canada, as a result of September 11, to amend that bill rather than to rely on regulations.

With those thoughts, honourable senators, I will enjoy listening to the third reading debate as it progresses.

Hon. A. Raynell Andreychuk: Honourable senators, I was not part of the Standing Senate Committee on Social Affairs, Science and Technology when Bill C-11 was before it. However, I did attend most of the committee meetings and, therefore, wish to make some comments.

First, Bill C-11 deals with something very important to many Canadians. It is not trite to underscore again and again, as our politicians do, that we are a multicultural country. Save and except for our Aboriginal base, we have a base made up of immigrants who came to this country, whether they have been here for two generations or five generations or whether they have recently arrived. Therefore, this bill deserves the greatest of scrutiny. I am afraid that this chamber, and certainly the committee, were pressed into what I think was an unfair and unrealistic timetable to deal adequately with the bill.

The minister and her officials justified Bill C-11, the first massive change and overhaul of immigration and refugee law in Canada in some 25 years. They said that it is framework legislation intended to streamline the immigration and refugee process and that it is necessary for us to act on terrorism as a result of the horrific acts of September 11.

Bill C-11 raises more concerns and questions about immigration, refugees and terrorism than it answers. In comparing the present act to Bill C-11, under Bill C-11 refugees will be facing a much more complex set of criteria and a much more complex process that in the end will not be better for the security of the refugees or for the security of Canadians.

On the immigration side, permanent residents are losing many rights. In my opinion, they are being dealt with unfairly. While

perhaps being streamlined the immigration process is very unfair. It is depriving permanent residents of a process that anyone might warrant in any other country and what we in our country should want.

We are depriving permanent residents of due process, some of whom may have lived in this country from the age of two or more. The minister tends to say that permanent residents should go that extra step and become citizens. There are valid reasons why certain permanent residents in Canada do not wish to take out citizenship, and it is not necessary.

• (1810)

Surely, if they have contributed to our society and if they have been formed by our society, we have a responsibility to them. They have certain rights and we should deal with them. In the bill, we are taking away the right of appeal in serious offences. Surely we have a responsibility to someone who is moulded by this society. I do not want to go any further into the evidence, as the very excellent experts that we heard brought this point out in the hearings.

There are some serious concerns about Bill C-11. However, as terrorism is such an overwhelming issue now, we were put in the position of putting at risk some of the other elements of Bill C-11 to allow this bill to take terrorism into account.

Let me read to you what Mr. Benjamin Trister, Chair of the National Citizenship and Immigration Law Section of the Canadian Bar Association said:

There are, however, serious problems with the bill. Although they originate from well-intended policy objectives, the end results in Bill C-11 are often misguided and ill-suited to the policy objectives to which we relate.

We wish to comment on any sense of urgency to pass this legislation in light of the events of September 11. We are aware of comments from public figures suggesting that quick passage of Bill C-11 is needed to provide the government with the tools to fight terrorism. The current act provides powers for arrest, detention and removal of persons who constitute security risks to Canada with paramount weight being given to the safety of Canada over the liberty of the individual.

There is no gap to be filled by Bill C-11 in the area of preventative and pre-emptive detention of security risk. This issue should not be used as an excuse to overlook the substantial shortcomings of Bill C-11, and its impact on permanent residents and fair process. Indeed, in times when national security issues of such import are in play, it is particularly necessary to ensure that process and fairness are protected.

I want to go now to the testimony of Mr. David Matas. Mr. Matas is well known in Canada and elsewhere for his work with refugees and for his work on immigration issues. In his testimony, Mr. Matas stated the following to the committee:

Bill C-11 is a complex bill. It is the first new Immigration Act since 1976. There are many problems in the bill, technical problems as well as big issue problems. It needs a thorough going over. There is a whole new fix on the bill because of the destruction of the World Trade Centre and the terrorist attacks, which means that we must look at this system from different eyes. The Senate, I believe, can do it, given the time.

However, we were not given the time. I will continue reading the remarks of Mr. Matas.

As some of you know, I am a refugee lawyer in private practice. I have an individual perspective on this bill as a refugee lawyer, which to a certain extent overlaps with my concerns that I am presenting on behalf of the B'nai Brith. The legislation is complex. It is detailed. It is multi-step. It is lacking fairness in some respects. It denies international standards in some respects. It drags out proceedings unnecessarily.

Mr. Matas said that the bill is too long, too complex and unfair.

Further in his testimony he stated:

The first problem I have with the bill is that it does not have clear rules about who is removable. It sets up a system of discretion such that some people who are in the category of terrorist, torturers, war criminals and criminals against humanity can be allowed to stay at the discretion of the minister. There is a discretionary section. In my view, none of them should be allowed to stay except if they are removable to torture, arbitrary execution, forced disappearance or death penalty. In those situations, none of them should be allowed to leave. The bill does not say that. It allows removal in situations where there should not be removal and allows them to stay in situations when they should not be allowed to stay.

Mr. Matas further stated:

Part of the message I am trying to get across here is that some of the problems with this bill are much more acute, made more manifest by what has happened at the World Trade Center. We do not have an adequate system of moving terrorists through the system. It is too compartmentalized, too fragmented, too slow. That was a problem before, but I think it is even more of a problem now. It would be foolhardy to ignore the problem and just rubber stamp legislation designed in advance without even looking at the applicability of the current crisis to the legislation.

Mr. Matas later said:

Politically, we can make this bill better in dealing with the problem of terrorism. There are other problems with the bill too but it is not as effective as it could be in dealing with terrorism. Politically that is an important message. I could

understand a new piece of legislation passing quickly through based on what happened at the World Trade Center, such as I might add Bill C-36, and dealing with immigration and terrorism, but I do not see the political value of rubber stamping a bill that was prepared before the World Trade Center event. How can we say that this is the solution? This is an *ex post facto* rationalization. It is not an attempt to deal with the problem.

I have quoted two witnesses, but there were many witnesses. Virtually everyone pointed out that the bill was drafted before September 11, and was not geared for terrorism.

The biggest problem that I see with the terrorism issue in Bill C-11 is that terrorism is not defined. It is absolutely true that we have framework legislation. Framework legislation contemplates a definition in the regulations. The regulations were not before the committee. The witnesses indicated that they are only starting to prepare the regulations, and that they will not be ready until the spring, and perhaps later, as the Chair of the Social Affairs Committee pointed out.

We should have had the benefit of seeing those regulations to know what the definition of terrorism is to be. Witnesses such as Professor Joseph Magnet questioned whether it is fair to delegate down something like the definition of terrorism, and many other aspects. Is there sufficient parliamentary oversight, consistent with principles of responsible government and democracy, of this regulation making power in the social context? We are not talking about some gasoline standards and temperatures at which gas is cracked into a different product. We are talking about fundamental rights of people to be members of our society and our community and to live among us.

Honourable senators, there is delegation of the term "terrorism."

In the committee hearings on Bill C-36, it is fair to say that senators on both sides were concerned about innocent people being tracked as terrorists. We looked at the definition of "terrorist activity" for the purposes of the bill that Minister McLellan brought forward, Bill C-36. When we asked whether in fact the same definition would be used in the immigration bill, Bill C-11, Minister McLellan very rightly indicated that that was not her area.

Minister McLellan came to defend Bill C-36; Minister Collenette came to defend Bill C-36. Minister Caplan refused to come. We heard from Minister Caplan before Bill C-36 was before the special standing committee. We had no idea of the terrorist activity definition or how that omnibus bill would be viewed. Therefore, we were without benefit of having her respond to the questions.

• (1820)

The minister was not called back to the committee because of the shortened time frame. We have no idea whether Minister Caplan will use the same definition of "terrorism" as contemplated by Bill C-36 or whether she will have her own.

The fundamental problem here is that "terrorism" can be defined and redefined without being gazetted, according to the bill. The minister and his or her bureaucrats can exercise absolute discretion without any parliamentary scrutiny.

As a chamber, we have said that we are tired of seeing substantive matters that require parliamentary scrutiny being shoved into regulations. Surely, the thing that strikes terror is the fact that Bill C-11 does not tell us who will be defined as a terrorist. One could say we have an urgency so let us pass Bill C-11, but all the witnesses who came before us said that there is sufficient power in the existing legislation to do pre-screening, which in fact the minister has done. In other words, we can put into custody or keep out of our country anyone who could be a threat to our national security. Bill C-11 does not change that. In fact, one of the witnesses pointed out that the new bill will lessen national security, not strengthen it.

Here we are, with a minister who refuses to come to the Senate to explain her position, a minister who wants more discretionary power placed into regulations, justifying it by saying that it is absolutely necessary for the safety and security of Canadians.

Every witness — and I suggest we should listen to them — said no. There is a sufficient ability to screen and pre-screen and nothing new will happen under Bill C-11. There is sufficient ability for CSIS and the RCMP to put people into custody if they are a national security risk.

Resources will still be missing. We will still be short-staffed. Bill C-11 will not change that. The minister released resources already, before passing Bill C-11, under the existing act.

The Hon. the Speaker: Honourable senators, I am sorry to advise that the honourable senator's 15 minutes have expired.

Senator Andreychuk: I would ask for leave to continue.

Hon. Fernand Robichaud (Deputy Leader of the Government): I would agree to five minutes.

The Hon. the Speaker: Is leave granted, honourable senators, for a five-minute extension?

Hon. Senators: Agreed.

Senator Andreychuk: Honourable senators, terrorism is a horrible threat. Only one immigrant was able to testify about how difficult it was to get into Canada. He wanted the Senate to know this: Immigrants and refugees are also worried about terrorism, globally and locally. They came to Canada to escape fear and violence, and it followed them.

In the best interests of everyone, we want to target terrorists and no one else. That is the fine work of Bill C-36, but Bill C-11 brings no benefit.

Minister Manley recently said that he will look to the United States and its desire to harmonize the immigration and refugee process with the terrorist bill. Minister Manley says he will do

that. That, to me, is an admission that Bill C-11 solves nothing. The disadvantages of the bill, though, are horrific. Unless we know what the minister will do, unless we can prevail upon the government to pass an adequate overhaul of the existing immigration bill, we will be no further ahead in trying to address terrorism.

MOTION IN AMENDMENT

Hon. A. Raynell Andreychuk: Honourable senators, I fear a public misconception that by passing Bill C-11, we have somehow dealt with terrorism. I therefore move, seconded by Senator Kinsella:

That Bill C-11 be not now read the third time, but be read a third time on a day six months hence.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

On motion of Senator Kinsella, for Senator Beaudoin, debate adjourned.

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Leonard J. Gustafson: Honourable senators, with leave of the Senate, I wish to move a motion authorizing the Standing Senate Committee on Agriculture and Forestry to sit this evening even though the Senate is still sitting.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

EXPORT DEVELOPMENT ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-31, to amend the Export Development Act and to make consequential amendments to other Acts.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

CANADA-COSTA RICA FREE TRADE AGREEMENT IMPLEMENTATION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-32, to implement the Free Trade Agreement between the Government of Canada and the Republic of Costa Rica.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

[Translation]

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 2001

THIRD READING—DEBATE ADJOURNED

Hon. Marie-P. Poulin moved that Bill S-31, to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, be read the third time.

She said: Honourable senators, this bill marks another important step in the formation of Canada's growing system of tax conventions, which now extends to over 70 countries. Our system is one of the most complete in the world.

• (1830)

Known officially as the Income Tax Conventions Implementation Act, 2001, Bill S-31 would implement tax treaties recently concluded between Canada and eight other countries.

[English]

Honourable senators, five new treaties were signed: one with each of Slovenia, Ecuador, Venezuela, Peru and Senegal. They are historic in the sense that they are the first comprehensive conventions ever signed with these countries and they will provide taxpayers and businesses with more predictable and equitable tax results in their cross-border dealings.

The remaining three conventions, with Germany, with the Slovak Republic and with the Czech Republic, replace existing treaties. The Canada-Germany treaty updates our bilateral arrangements with Germany to make them consistent with current Canadian tax treaty policy, while the agreements with the Czech Republic and Slovakia are the result of the peaceful breakup of Czechoslovakia in 1993.

After that, each country wanted to sign its own tax treaty with Canada, and this presented an opportunity for Canada to update its arrangements with these countries as well.

Honourable senators, as you know, tax treaties contribute to the growth of the Canadian economy. For example, exports account for more than 40 per cent of Canada's annual GDP. In addition, foreign direct investment and inflows of information, capital and technology also impact on Canada's economic wealth. However, there is one particular aspect of international taxation that can have a negative impact on the expansion of our trade and on the movement of capital and labour between countries: double taxation. Tax treaties, including the ones in this bill, are designed to address this issue. I will explain.

[Translation]

One of the fundamental characteristics of our income tax system is that, like most countries, Canada applies tax on the world income of Canadian residents and on the revenue from a Canadian source for non-residents.

When a taxpayer resides in one country and earns income in another, a problem can arise. Without taxation agreements, both countries could end up taxing the same income.

One of Canada's objectives consists therefore in negotiating these taxation agreements so as to eliminate obstacles to trade and cross-border investments such as double taxation. The other is to prevent tax fraud or evasion. The question of eliminating double taxation can be treated in a variety of ways in tax agreements.

For example, taxation rights can be divided between Canada and the other signatory according to revenue category. When the two countries agree to split the right to tax an income, the country in which the taxpayer is residing may provide the taxpayer with tax relief for what was paid in the other country where it was earned. A mutual agreement also enables the tax authorities of both countries to deal directly with each other in order to solve other cases of double taxation.

Honourable senators, allow me to now explain how double taxation is eliminated with the tax treaties we are discussing today. As with our existing tax conventions, the treaties included in this bill define how Canada and the eight other parties to these agreements can impose a tax on the income of residents of the other country.

For example, Canada and most other countries collect a withholding tax on passive forms of income earned by non-residents. In the case of Canada, the rate applied when there is no tax treaty is 25 per cent. Each of the agreements mentioned in Bill S-31 reduces the rate of the withholding tax that can be collected on certain incomes by Canada and by each of the other parties to the conventions.

For example, each party sets a maximum withholding tax rate of 15 per cent on portfolio dividends paid to non-residents, while bringing the rate to 5 per cent or 10 per cent, depending on the convention, for dividends between affiliated companies. Also, the maximum withholding rate on interest and royalties is between 10 per cent and 15 per cent, while the maximum withholding tax rate on pensions is set at 15 per cent, except in the case of the convention signed with Venezuela, which provides that pensions will continue to be taxed in accordance with the legislation of each of the two countries.

I indicated earlier that Canada's tax conventions are also designed to prevent tax avoidance or tax evasion. This objective is achieved by promoting cooperation between tax authorities, particularly as regards the exchange of information.

[English]

Before closing, I would point out that the new agreement with Germany provides for mutual assistance in the collection of outstanding taxes. As with similar arrangements that we have in place with the United States and the Netherlands, Canada will now assist German tax authorities in collecting their outstanding taxes, and they will help us to collect Canadian tax owing.

Honourable senators, in considering this bill, I would ask you to look at the broader picture and to keep in mind that each treaty is part of Canada's larger efforts to build goodwill and to create conditions for growth that will improve relations with our trading partners.

As with our existing tax treaties, many positive benefits will ensue for taxpayers and businesses alike. First, taxpayers will benefit from knowing that a treaty rate of tax cannot be increased without substantial advance notice. Second, investors and traders will benefit from the atmosphere of certainty and stability that the mere existence of tax treaties will foster. Third, annoyance with and complexity in the operation of the tax system will be reduced with the elimination of having to pay tax on certain business profits and with the provision of a mechanism to settle disputes. Fourth, an expanded tax treaty network will generate more international activity that will impact favourably on the Canadian economy. The business community, in particular, will welcome the withholding tax limits legislated in this bill and the cooperation that will ensue between Canadian and other tax authorities. Fifth, by far the most important benefit will be the elimination of double taxation that might otherwise arise in international transactions with these eight countries.

Honourable senators, our tax treaties assure us of how Canadians will be taxed abroad. At the same time, these treaties assure our treaty partners of how their residents will be treated in Canada.

In light of these benefits and the impact these tax treaties will have on Canada's overall economic performance, I urge honourable senators to pass this bill without delay. Enacting this legislation will bring Canada's network of tax treaties to include more than 75 countries.

On motion of Senator Kinsella, debate adjourned.

• (1840)

INTERNATIONAL BOUNDARY WATERS TREATY ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Corbin, seconded by the Honourable Senator Day, for the second reading of Bill C-6, to amend the International Boundary Waters Treaty Act.

Hon. Pat Carney: Honourable senators, this is an appropriate bill to be presented at this late hour because it is a sleeper of a bill. I do not think anyone in this house understands the purpose of this bill, or the Liberals and the government would not have brought it forward.

Bill C-6, to amend the International Boundary Waters Treaty Act, attempts to provide for more effective implementation of the venerable 92-year-old treaty between Canada and the U.S. over the management and use of our shared water resources known as boundary waters.

While the principal objective of this bill limiting bulk water exports is laudatory and is supported by many Canadians as well as the Progressive Conservative Party, the proposed legislation, in my view, could prove the "Law of Unintended Consequences," resulting in an outcome the complete opposite of its stated objective. I will outline my reasons for this analysis later.

The purpose of the amendment to the 92-year-old bill is to prohibit, with certain unspecified exceptions, the bulk removal of water from basins that straddle the border between Canada and the U.S. The prohibition on boundary water removals would apply principally to the Great Lakes, but would affect nearly 300 boundary waters, such as part of the St. Lawrence River, the St. Croix and the Upper Saint John River, Lake of the Woods, and basins of water and rivers in British Columbia.

Let me explain my personal and political interest in the subject of water rights, licences and exports. My first personal interest stems from the fact that my grandparents were homesteaders in the Okanagan. They were the descendants of Irish immigrants. They homesteaded 360 acres on the arid side of the Okanagan valley. Next to the log cabin they built there was a spring called the Pump Bowl. The springs were the secret of success in the Okanagan. Then the time came for my grandfather, old John Joseph, to apply for a licence on this spring. If you know British Columbians and many Westerners, you know that they will say, "Why do we have to do this? My God, the spring is next to the house. We don't have to get a licence." Nonetheless, old John Joseph, who liked his rye whisky, got on his horse, Billy, and went to town to get the licence. However, he got sidetracked drinking with his buddies, and he never got to the office to get the licence, but his neighbour did. That was the end of the homestead. When the old man died, there was no grain in the barn, there were no cattle on the range, there was nothing, because he had no water for his homestead. The whole issue of water licences and water rights has been very important to our family.

My second personal interest in this bill is political because, as minister responsible for the Free Trade Agreement, I was involved in the negotiations regarding Canadian resources and other issues. My chief negotiator, Simon Reisman, my great friend, was an avowed supporter of something called the North American Water and Power Alliance. Those of you who were not born yesterday will remember that this was first proposed in 1964. It was called NAPAWA, and this project contemplated damming virtually every major river in Alaska and British Columbia, including the Yukon, the Skeena, the Tatiana, the Peace, the Churchill, the Mackenzie and the Fraser. The excess water would be diverted into the 500-mile natural depression known as the Rocky Mountain Trench that runs the length of British Columbia, and this trench of water would move down British Columbia. Some of it would go to the Great Lakes and the Mississippi River. The water level of the Great Lakes would rise; hydroelectric generation at Niagara Falls would increase; ocean-going vessels would move up the Mississippi to St. Louis. Most of the water would travel both sides of the Rockies towards the Great Plains, towards Idaho, Texas, California and Mexico. This plan, monumental and breathtaking in its scope, would be the largest engineering project in the world.

My chief negotiator, Simon Reisman, told the Ontario Economic Council and I am quoting here from Canadian Business in 1985, that the U.S. wants Canadian water badly and this could be the playing card that would give Canada its best opportunity to secure long-term access to the U.S. market for Canadian goods, which is what the FTA was all about. He actually said in an interview, "The Americans have a desperate need for water...I think they would go crazy for the idea." He referred to water as the "missing link" in trade talks, and that, instead of the Grand Canal, "This bargaining lever is so great we can get anything we want so long as it is reasonable."

You can imagine that my concern about water and water exports was quite deep. In the Free Trade Agreement, the reference to water is minimal. It is contained in Tariff Schedule No. 22.01. It deals with waters, including natural or artificial mineral waters, aerated waters, not containing added sugar or other sweetening matter nor flavours. It also states: "ice and snow." This is very ambiguous. I do not know how the phrase, "ice and snow" ever got by me. It was probably added in the detail stage.

I read this bill with great interest. It is, of course, much less ambitious. We are not talking about exporting water down both sides of the Rockies, but it does amend and update the International Boundary Waters Treaty Act.

Senator Corbin said in his speech in this place that, by adopting Bill C-6, the Senate will establish in law "an unambiguous prohibition of bulk water removal in waters under federal jurisdiction, which is a forward-looking action that places the highest priority on ensuring the security of Canada's fresh water resources."

I would suggest, honourable senators, that the opposite could be the case, that Bill C-6 as written could be a step backwards, with the unintended consequence of actually permitting some bulk water exports where no such permission now exists.

If this interpretation of the bill is correct, we will have achieved exactly the opposite of what most Canadians want, which is protection of Canadian freshwater resources.

I will not walk you through all 26 clauses of the bill because Senator Corbin did an excellent job of presenting what is in the bill. However, I will briefly go through it. The first clause deals with how the act will be amended, including the definitions, the licensing process, the regulatory process, the prohibitions, what would not be permitted. The most important amendment is to add subsection 13.(1), which will state:

Despite section 11, no person shall use or divert boundary waters by removing water from the boundary waters and taking it outside the water basin in which the boundary waters are located.

The bill deals with the ministerial powers of suspending or revoking the licence. It sets out penalties. It basically says you cannot divert water from water basins, it defines water basins, and it specifies that there shall be penalties — and quite stiff penalties, Senator Corbin, \$1 million dollars in some cases — on indictment, should one be in contravention of the act.

This bill deals with the prosecution of officers who are seen as a party to an offence under this proposed act. It deals with injunctions, stating that there is a process of seeking and granting injunctions, if someone is suspected of or is in the process of diverting waters under this act.

• (1850)

However, we have several areas of concern with the bill as written, which I will outline. As I say, the 26 clauses are quite straightforward, and Senator Corbin has them on the record. Other concerns may emerge under the scrutiny of the committee process, and I suggest that both Ministers Manley and Anderson, who have jointly spoken to this bill in the other place, be asked to address these concerns in committee.

While I understand that they have heavy responsibilities dealing with Canadian security issues at the present time, I would venture that in our long-term future no issue affects the security of Canadians more than our unimpeded access to and protection of our fresh water resources since water is the most essential element in our survival as human beings.

My first concern is the lack of definition of the term "bulk exports." It is amazing that this bill prohibits something that it does not define. There is no definition of "bulk exports" in this bill.

What in fact constitutes a bulk export? Is it a tanker load of water? Is it a sufficient amount of water to sustain a water pipeline? Is it some fraction, unspecified, of the amount of water in an international basin as defined in the bill? In its definition section, the bill deals only with the terms "boundary waters," "licence" and "minister." There is no definition of the term "bulk exports." This is a serious omission.

When asked to supply a definition, the Department of Foreign Affairs and International Trade advised my office that the definition of "bulk water" will be in the regulations that will implement the bill. In general, a department official told us:

A bulk removal would constitute projects that involve a continuous flow of water or a volume amount that would exceed 50,000 litres per day.

I confess that I really do not know what 50,000 litres a day would be, but that is a working definition.

It will also include a project that will use a pipeline, tunnel or aqueduct to divert water.

Those would be prohibited.

If this definition of the important term "bulk water" has been decided upon, why not include it in the bill itself?

My second area of concern involves the extensive reliance placed in this bill on ministerial powers and ministerial discretion, which of course subverts the very basis of Parliament, which is to scrutinize government proposals, provide alternatives and debate important issues. Surely the issue of Canada's freshwater supplies, its utilization — and by whom — merits Parliament's attention.

Senator Nolin pointed out in his intervention with Senator Corbin that Bill C-6 leaves the power to define elements in the hands of the minister through his regulatory power. Clause 21(1) states:

The Governor in Council may, on the recommendation of the Minister, make regulations

(b) defining, for the purposes of this Act, any word or expression used in sections 11 to 26 that is not defined in this Act.

This essentially leaves the core issue — what fresh water is exportable and what is not — entirely to ministerial discretion, beyond the scrutiny of Parliament. Senator Corbin has responded by saying that ministerial power is not absolute power; in making any decision, the minister will have to take into account the outcome of a public consultation process and will consult with stakeholders.

However, these safeguards are not spelled out in this bill. Instead, the government is relying on the generalities of the regulatory process. I should like to remind honourable senators that in that process the regulations go to a special committee of cabinet. They are then published in the *Canada Gazette*. There is a two- or three-week period for public comment, after which the regulations are returned to the special committee. When they are published for the second time in the *Canada Gazette*, they are law. There is no scrutiny by Parliament.

I cannot find in the bill a specific clause that commits the minister to a specific regulatory process that, for instance, would require regulations to be reviewed by Parliament, by provincial jurisdictions and by stakeholders before being implemented. There is a precedent for this process in other legislation, specifically the Canadian Environmental Assessment Act.

Senator Corbin has given assurances that committee members may see draft regulations during our Senate review, but he has not made any commitments that these draft regulations may be changed or altered during the committee stage now or in the future.

It is amazing that other essential elements in this proposed regulation are also left to the regulatory process, beyond a detailed examination by Parliament. These elements include specifying what constitutes a use, an obstruction, a diversion or work. That is what the bill is dealing with. Use, obstruction, diversion or work are, in fact, the actual targets of the bill. Those are left to ministerial discretion to decide.

Also left to ministerial discretion is describing the water basins to which the export prohibition applies. Also left to ministerial discretion are the exceptions which the minister may permit, prescribing the classes of licences and who is eligible to hold them, and the manner in which the applications are to be filed, processed and disposed of.

The arrogance and the arbitrary nature of such ministerial discretionary powers are astonishing. They extend to every single important aspect of the proposed legislation on which the lives and livelihood of Canadians depend. That is why I say I am surprised that the government would bring forward this bill in its present shape.

Bill C-6 has slipped through the parliamentary system largely without comment by the media or the public, soothed by the motherhood arguments presented by its Liberal proponents — and supported by other parties, I must confess — on the need to protect Canada's freshwater resources.

It should be noted that the current act, the venerable International Boundary Waters Treaty Act, does not include the power to make regulations. Clearly, amendments that would provide a specific, transparent and accountable regulatory process would assist us in managing our freshwater resources. However, in our view, it is essential that the bill be amended to ensure the regulations that define and implement the provisions governing freshwater exports within the federal jurisdiction be examined and approved by Parliament.

My third area of concern deals with the possible exceptions to the general prohibition on bulk exports, however they may be defined. Possible exceptions are identified in the Library of Parliament's legislative summary as "water used in the production of food or beverages" or other exceptions specified in the regulations as set out in section 13(4). Remember, this is subject to ministerial discretion only.

Does that mean that Canadian fresh water could be exported to food and beverage manufacturers in the U.S. as well as domestic manufacturers? This raises the issue of whether such water exports create a "tradable good" — that is essential to this argument — subject to international trade laws. Under the terms of international treaties such as NAFTA, Canada would be required to award U.S. and Mexican companies "national treatment." In other words, Canada would be obligated to provide Americans and Mexicans the same access to its fresh water resources as the access provided to Canadians. I remind my colleagues that this is an area that I had a lot to do with in the free trade negotiations.

The government maintains that under international trade law, Canadian governments, federal and provincial, retain full sovereignty over Canadian water in its natural state. This is the approach taken by the three countries that are signatories to NAFTA: Canada, the U.S. and Mexico. The Canadian view is that water in its natural state is not a good and is therefore not subject to trade obligations, and I support that view. I have always opposed the so-called export ban on fresh water because it implies that water is in fact a tradable good.

The Office of the U.S. Trade Representative — the American counterpart to our own Department of International Trade — agreed, in a formal submission to the International Joint Commission, which stated:

...water resource management rights belong to the country or countries where the water course flows. We are not aware of any government having challenged this principle in any forum, let alone before an international trade body such as the World Trade Organization. ...the WTO simply has nothing to say regarding the basic decision by governments on whether to permit the extraction of water from lakes and rivers in their territory.

Instead, the Canadian government treats the prohibition of bulk water removal from a basin as an environmental issue necessary to protect the ecological integrity of international boundary basins. That is a good position to take, in my view. However, the NAFTA statement, which supports this view, also states:

● (1900)

Unless water in any form has entered into commerce and become a good or a product, it is not covered by the provisions of any trade agreement, including NAFTA.

It is the word "unless" that troubles me. It implies that if water in any form has entered into commerce, possibly by ministerial decree under the provisions of this bill, the issues of "tradable good" and "national treatment" arise. I hope the ministers and his officials can clarify this issue during the committee process.

Another murky area is the stance of the provinces, which control 85 per cent of Canada's fresh water resources. Environment Minister Anderson, speaking in the other place, suggested that all provinces have either enacted legislation and policies that prohibit the export of bulk water or are planning to do so. Yet, the evidence is otherwise. I understand that B.C., which enacted its own Water Protection Act in 1995, prohibiting the removal of water from the province, has reservations about the federal approach.

Minister Manley echoed the commitment in the other place that "as of today all provinces have put into place or are developing legislation and policies to prohibit bulk water removal." However, only half of the provinces have signed on to the federal accord. Manitoba, Saskatchewan, Alberta, British Columbia and Quebec are the abstainers. It is hard to argue that the provinces are on side when half of them have abstained from signing on.

A federal government priority and focus of the proposed amendments are the Great Lakes, which involve two federal governments, eight American states and two Canadian provinces — Ontario and Quebec. These jurisdictions have been working for more than a year on the development of common standards to manage bulk water removal on the Great Lakes but had not come to any agreement on common standards when the minister addressed the other place on April 26, 2001.

I think that members of the Senate committee would appreciate some clarity from the minister on what these standards are, and an update on progress to date.

A final concern that has emerged in my study so far of this bill deals with the reciprocity of legislation with the Americans, our partners in the International Joint Commission and in the management of boundary waters. Both Canada and the U.S. agreed on a reference to the International Joint Commission to investigate and make recommendations on the consumption, diversion and removal of water from the Great Lakes, which Minister Manley deems the greatest of the shared waters. Of course, since I am from British Columbia, I might dispute that view.

Minister Manley said that Bill C-6 is consistent with and supportive of the IJC's conclusions and recommendations in its final report filed in February 2000. However, there are other important boundary waters and transboundary waters, and as Canada moves ahead in implementing the IJC's report, we would like to know how the Americans are proceeding with their reciprocal responsibilities.

We look forward to hearing more on these vital issues from the ministers, their officials and other witnesses in the next few

months, and we on our side of this chamber will consider recommendations and possible amendments in committee.

Honourable senators, I thank you for your attention, and I urge to you scrutinize this legislation to ensure that it carries out the intent that the government and the Canadian people meant it to achieve.

On motion of Senator Spivak, debate adjourned.

[Translation]

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, since we had a long day during which we accomplished a lot and since some committees are sitting right now, I move that the Senate do now adjourn and that all items on the Order Paper and on the Notice Paper that have not been reached stand in their place.

The Senate adjourned until Wednesday, October 31, 2001, at 1:30 p.m.

**STATEMENT TO THE THIRD COMMITTEE
OF THE 55TH GENERAL ASSEMBLY**

**MR. ROSS HYNES
REPRESENTATIVE OF CANADA**

ITEM 114 (b, c, d, e): HUMAN RIGHTS QUESTIONS

NEW YORK, NOVEMBER 1, 2000

This year the United Nations General Assembly began with the convening of the Millennium Summit — a summit which reinforced the vital role of the United Nations in serving the world's peoples. The Secretary-General spoke of the UN's mandate to protect vulnerable people by finding better ways to enforce humanitarian and human rights law and by helping to build a culture of respect for human rights in all states. As Kofi Annan said, the world's peoples are telling the United Nations that it must do more, and it must do it better.

Human rights are particularly at jeopardy in situations of armed conflict. Ensuring freedom from fear requires the international community to tackle the threat of deadly conflict at every stage in the process - from preventive action in the form of early warning of human rights violations, speaking out and taking action when these violations occur, and taking measures to build sustainable respect for human rights in the aftermath of conflict. The greatest impact of armed conflict is suffered by children. That is why in September we convened the Winnipeg Conference, the first truly global meeting on war-affected children which brought together Ministers, the UN and NGOs to set an agenda and consolidated concrete commitments to child protection. Children should have no part in war, yet today they are among its main victims.

In Sudan, Canada is gravely concerned about the indiscriminate bombing of southern villages by government forces, particularly the bombing of schools and hospitals. The use of child soldiers, the forcible displacement of people from their homes, the forced abduction, forced labour and servile status of women and children is widespread. While we are encouraged by the return of sixteen former Lord's Resistance Army abductees, we urge the government to implement fully its recent commitments, in particular those by the Minister of Foreign Affairs, made at the Winnipeg Conference on War Affected Children. Canada calls on all parties to the conflict to respect their obligations under international human rights and humanitarian law and to safeguard as well the rights of the four million internally-displaced people in Sudan.

More than one year on, the conflict in the Republic of Chechnya in the Russian Federation shows no signs of resolution. Canada believes that the conflict can only be ended through an inclusive, negotiated political solution. Canada remains deeply concerned by the plight of civilians in Chechnya. While the scale of fighting has diminished, civilians remain at risk from Russian and Chechen combatants, terrorism and land mines and unexploded ordnance. We welcome the progress to date on the investigation of allegations of human rights abuses and call on Russia to cooperate more closely with international experts, including the United Nations.

In the Great Lakes Region of Africa, notably in the Democratic Republic of Congo (DRC) and Burundi, gross violations of human rights and international humanitarian law still occur daily. In the DRC, Canada remains deeply concerned by the human rights situation which has been exacerbated by the continuing presence of foreign troops in that country. The Special Rapporteur on the human rights situation in the DRC indicates that the situation has worsened in the territories controlled by the rebels, especially those controlled by the RCD-Goma and its foreign sponsor, Rwanda. The report also denounces human rights violations by the government and by armed militia and armed groups such as Ex-FAR and interhamwe. We reiterate that all parties to the conflicts are responsible for the protection and security of humanitarian personnel in their zones of control. We strongly encourage all signatories to the Lusaka Agreement to respect their undertakings and bring an end to the conflict and to respect the human rights of civilian populations and their obligations under international humanitarian law. Canada further hopes that the leaders of the countries involved in the conflict will honour their commitment recently made in Maputo to withdraw their forces from the present frontlines.

As for Burundi, Canada welcomes the signature of the Arusha Peace Accord but regrets that fighting continues; we call on the rebels to cease their attacks and conclude a cease-fire agreement. Canada remains concerned with the situation of inhabitants in the regroupment camps.

The human rights situation in Afghanistan continues to be appalling. The officially sanctioned treatment of women by the Taliban authorities is unsurpassed in its lack of compassion and is totally unacceptable to world opinion, as is the use of air power by Taliban forces against areas of civilian population. The international community has called on both sides in the Afghan conflict to show respect for the lives of innocent civilians, the absence of which is illustrated by the continued and indiscriminate use of landmines. Afghanistan's role as the world's largest heroin producer and distributor also poses challenges to respect for human rights. The Taliban in particular must recognize that they can have no prospect of fruitful engagement with the outside world unless such policies and practices are radically changed.

In Sri Lanka the longstanding conflict and the serious violations of human rights and international humanitarian law by both the Government forces and the LTTE are yet another depressing example of the terrible impact of war on civilian populations, particularly children. We continue to be concerned that, with very few exceptions, human rights violations are aggravated by delayed judicial action and perceived impunity of their perpetrators.

In Colombia the deliberate targeting of civilians as "military objectives" by illegal armed groups, both guerrilla and paramilitary is the single most serious human rights issue. We fully support the government's efforts to reach a negotiated settlement to the conflict and underline the urgent need for a humanitarian accord to guide future talks. Canada is concerned about increasing threats and attacks against human rights defenders, the indigenous, and Communities of Peace. We urge the Government of Colombia to implement adequate measures to protect these groups and to bring to justice those responsible for threats and acts of murder. We urge the government to implement without delay an early-warning system to better protect human rights defenders. Flagrant abuses of international humanitarian law by illegal armed groups continue to increase, notably kidnapping, the recruitment of minors, execution of defenceless combatants, and the refusal of access to detainees (de facto prisoners of war).

In other instances, the aftermath of conflict has left countries in a fragile transition period. At this stage, countries can either move forward to build long-term peace or revert to conflict. The ways in which countries choose to tackle issues of impunity, conduct elections, build functioning human rights institutions and cooperate with the international community can tip the balance.

While Canada notes that Ethiopia and Eritrea have largely respected the agreement on cessation of hostilities, we remain deeply concerned by the human rights and humanitarian situation in both countries. We urge Ethiopia and Eritrea to remain fully engaged in the OAU peace process, to fully protect the human rights of the civilian populations within their territories, regardless of nationality, and to fulfil their obligations under international humanitarian law, including providing unconditional access to prisoners of war. We will be contributing to the UNMEE mission authorized by the Security Council, whose mandate includes a human rights unit. Canada welcomes Eritrea's recent accession to the Geneva Conventions, as well as the recent return to their countries of origin of a number of displaced Ethiopians and Eritreans.

In the Balkans, the situation of ethnic minorities in Bosnia and Herzegovina and the Federal Republic of Yugoslavia, particularly violence against minorities in Kosovo, remain of serious concern.

While respect for human rights in Bosnia and Herzegovina has improved over the past year, including with regard to the return of minorities, progress continued to take place only with considerable pressure from the international community which, in many cases, was responsible for the implementation of key elements of the Dayton Peace Agreement. Other areas of concern include the establishment of transparent and impartial judicial system and cooperation with the International Criminal Tribunal for the former Yugoslavia.

Over the course of the last year, the Federal Government of Yugoslavia repeatedly violated the human rights of its citizens. The Yugoslav judicial system continued to be unfair; dissenting voices — expressed in the media, peaceful demonstrations or the work of NGOs work — were regularly harassed and at times prosecuted. Innocent people were detained on trumped-up charges. The recent departure of indicted war criminal Slobodan Milosevic from power is a very welcome development which we hope will lead to a much improved human rights situation.

In Sierra Leone, the peace process remains stalled. Canada regrets that the demobilization, disarmament and reintegration program, and several other initiatives aimed at establishing an enduring peace have almost virtually stopped. As a member of the Security Council, Canada supports moves to create a Special Court for the perpetrators of crimes against humanity to bring to justice those who bear the greatest responsibility for atrocities, as well as to bring closure to less egregious but still unacceptable acts.

As that of Sierra Leone, the situations in Cambodia, Haiti and Indonesia are illustrative of the importance of combatting impunity. The international community has recognized this in adopting the Rome Statute. The establishment of the International Criminal Court will be a key step in ensuring that we are able bring to justice the perpetrators of the most serious international crimes. Today there are 22 states party and we urge others to ratify as quickly as possible, to ensure the 60 ratifications needed to bring the Rome Statute into force.

We were pleased earlier this year to witness an agreement between the Cambodian government and the UN on the composition and workings of a tribunal through which to address war crimes committed during the Khmer Rouge period. We encourage the Cambodian government to adopt legislation, in a timely fashion, that accords with the UN agreement. An internationally-credible tribunal would be an important step toward replacing a lingering culture of impunity in Cambodia with one in which the rights of individuals are fully respected. Cambodia's first-ever commune elections will be a welcome milestone on the path toward further democratization. We urge the Cambodian government to ensure that those elections are free from violence.

In Haiti, Canada has noted the holding of the Carrefour Feuilles trial and the advances in the Raboteau trial and encourages the Haitian government to continue its efforts to fight impunity. However, we are still concerned by the situation in Haiti. We hope the Organization of American States' efforts to facilitate a dialogue between Haitians will result in Haiti correcting the main deficiencies in their legislative elections and taking measures to strengthen democracy. Any other outcome would not augur well for human rights in Haiti and for our capacity to continue our support for Haiti's democracy and development.

In Indonesia, the resurgence of violence in Aceh, the Moluccas and West Timor continues to be of concern, as does the plight of a million people who have been displaced within their own country. We welcome the Indonesian government's extension to January 15 of the humanitarian cease-fire in Aceh. We encourage the Indonesian government to continue to prosecute those responsible for human rights violations in the different regions of the country. In this regard, we fully support the Indonesian government's intention to establish a human rights tribunal. We hope that the recent integration of the Ministry of Human Rights into the Ministry of Justice will not diminish the importance given by the Indonesian government to human rights questions.

The United Nations cannot fulfill its mandate of protecting and promoting the human rights of the peoples of the world without the full cooperation and engagement of its member states. The primary obligation to protect human rights lies with the State — first and foremost, through respect for international human rights and humanitarian law standards. If governments choose to ignore the wishes of their people and rule by force or by authoritarian dictate, human rights suffer and the UN's mission is frustrated. Rule by law is not the same as rule of law.

The government of Iraq continues to rule by terror, undertaking indiscriminate arrests, imprisonments and executions in order to maintain its hold on power. It has taken no steps to curb widespread human rights abuses, and suspended its cooperation with the previous Special Rapporteur on Iraq of the Commission on Human Rights. Canada expresses its appreciation for the work of Mr. Hans van der Stoep and lends its full support to the new Special Rapporteur, Mr. Andreas Mavromatis. We urge Iraq to engage in a dialogue with Mr. Mavromatis and to issue an early invitation to him in order that he may carry out his mandate. Canada urges the government of Iraq to end the arbitrary detention and execution of political and religious opponents, enforced disappearances, torture, denial of freedom of expression and forced displacement and deportation of Iraqi citizens.

The human rights situation in Burma continues to deteriorate and the prospects for any improvements look bleak. Canada is particularly concerned over the growing pattern of unacceptable behaviour demonstrated by the State Peace and Development Council towards Aung San Suu Kyi and members of the National League for Democracy party. Canada notes, however, that the International Commission of the Red Cross has been allowed to visit prisons in Burma. We urge the authorities to take immediate steps to comply with the recommendations of the ILO concerning the practice of forced labour. Canada welcomes the most recent visit of the Secretary-General's Special Representative and supports his efforts to begin a genuine dialogue involving

the State Peace and Development Council and Aung San Suu Kyi and the National League for Democracy. We reiterate our call on Burma to demonstrate genuine commitment to national reconciliation, human rights and the restoration of democracy by entering into a substantive dialogue with representatives of the pro-democracy movement and minority groups. Demonstrated progress in these areas by the SPDC is indispensable in improving the lives of the people of Burma.

We welcome the policy shift toward greater international engagement by the Democratic People's Republic of Korea as the absence of respect for human rights and fundamental freedoms there has long been a matter of concern. To assist the DPRK to integrate itself better into international affairs, Canada has recognized the DPRK as a state and will engage its government in dialogue to encourage it to implement the rule of law and act in accordance with universal human rights standards.

I started this statement by underlining the challenge all States face in ensuring better implementation of international human rights law. The international framework for human rights remains the treaties. Willingness to ratify international human rights treaties and willingness to accept international scrutiny by the treaty bodies and other human rights mechanisms are all part of building respect for the international rule of law.

We continue to urge China to assign higher priority to the early ratification and implementation of the two major international covenants on human rights which it has signed. We acknowledge China's ongoing commitment to modernising its legal system and increasing the standard of living of its citizens through difficult economic reforms. However, we remain concerned about continuing restrictions on freedom of expression, freedom of association, and freedom of religion, especially in Tibet; the continued application of the death penalty; the harsh sentencing of dissidents; and restraints on the activities of labour unions.

We urge Malaysia to ratify and implement the major human rights treaties. There has been a broad decline in the human rights situation over the past year. This is particularly noticeable with respect to the independence of the judiciary. As well as the conviction of former Deputy Prime Minister Anwar in a trial that was seriously flawed, the ongoing sedition trials of several government opponents and other legal actions, such as contempt of court rulings, have created an environment that stifles dissent and freedom of expression.

However treaties and constitutional provisions are meaningless unless they are implemented. Similarly, political commitments to respect human rights need themselves to be respected.

Canada strongly urges the government of Vietnam to respect the political and religious freedoms set out in its constitution. Canada remains particularly concerned about de facto limitations on religious freedom, especially for practitioners of Buddhist and Christian faiths. Canada welcomes recent amnesties in Vietnam, along with a reduction in the number of offences for which the death penalty may be imposed. We urge the government of Vietnam to take further steps in this regard, including the abolishment of the death penalty for all but the most serious of crimes.

We strongly believe that the military government of Pakistan must establish the economic, political and administrative foundations for the protection of human rights. Full implementation of the government's commitments to the transition to democracy and major national reforms is critical for success. This commitment is essential given the continued egregious human rights violations widespread in Pakistan, such as "honour killing" of women, widespread use of child labour, and the very discriminatory and unjust "Blasphemy Law." Canada acknowledges steps taken in such areas as freedom of information legislation and the establishment of a national commission on the status of women, and we hope that these initiatives contribute to positive reforms in other areas.

Canada is concerned with the increased resort to the death penalty and other forms of cruel punishment in Saudi Arabia, at times for less than the most serious offences and often without the accused having the benefit of access to legal counsel. We note the Saudi Arabian government's readiness to pay greater attention to human rights mechanisms and hope that this, together with the new regulations which have recently been introduced for the legal profession, will translate into an administration of justice in Saudi Arabia which is more consistent with universal human rights standards.

In Iran, President Khatami's plans for a tolerant, law-abiding and democratic society are facing a significant challenge from entrenched authorities hostile to his agenda. Canada continues to hope that the commitment to democratic ideals of Iran's elected officials will be reflected by increased respect for human rights. In particular much more progress is required on the core issues of women's human rights, freedom of opinion and expression, and freedom of religion. Despite some recent positive changes connected with the right to legally register their marriages, we remain concerned by the ongoing discrimination against Baha'is including the imposition of death sentences for practicing their faith. We were disappointed by the lack of

transparency and the failure to abide by recognized international standards of due process of the trials of 13 Jews and 4 Muslims in Shiraz on espionage charges.

Despite its government's rhetoric, we regret to note that there has been no substantial improvement in respect for internationally accepted norms of human rights in Cuba over the past year. Canada remains deeply concerned that individuals continue to be harassed, detained and imprisoned for activities that would be considered normal political protest in any democratic country. As well, we remain concerned about the threatening political message that Cuba's year and a half-old national security legislation conveys. Canada encourages Cuba to open greater space for peaceful political dissent, and freedom of opinion and expression; and to expand its dialogue with the Church and other members of its nascent civil society.

The situation in the Middle East is undermining the human rights of people living in the region. When politics and discourse fail, it is people who suffer. We must not let respect for international humanitarian and human rights principles and tolerance between communities become casualties of the current crisis. From the beginning, Canada has pursued two fundamental objectives, both multilaterally through the United Nations and bilaterally with our partners in the Middle East. Canada wants to see both the immediate cessation of violence and a return to negotiations. We support those efforts which we believe contribute to these objectives. We welcome the commitments made at Sharm el-Sheikh and we call on the parties to respect them. The success of these political efforts will hinge on the ability of all concerned to put the safety, security, human rights and well-being of people first, and in so doing help to bring calm, tolerance and stability.

No country in the world — including my own — is beyond criticism for its human rights record. And no country can argue that it has done everything in its power to fulfill its international human rights obligations or to ensure the fullest possible enjoyment by its citizens of all of their rights. As Kofi Annan said at the Millennium Assembly, we owe it to the peoples of the world to do more and to do it better. At the Millennium Assembly, our leaders endorsed a vision of the United Nations which has the tools to make a tangible difference for people. Canada's participation in this Third Committee debate on human rights situations around the world, as well as our efforts to promote human security — through the Ottawa treaty to ban landmines, our efforts to regulate the flow of small arms, the International Criminal Court, the Winnipeg Conference on War-Affected Children — are all inspired by the wish to live up to this goal.

COMMISSION ON HUMAN RIGHTS**57TH SESSION****ITEM 9: QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS IN ANY PART OF THE WORLD****STATEMENT BY MARIE GERVAIS-VIDRICAIRE
HEAD OF DELEGATION OF CANADA****GENEVA
30 MARCH 2001**

The United Nations Charter is written in the name of "we the peoples." Ultimately, the peoples of the world look to the United Nations to act as the conscience of the international community and to speak out on behalf of victims of human rights violations. The Commission on Human Rights plays a key role in the fulfilment of this mandate. The Commission sets human rights standards, it oversees their implementation and it provides an opportunity for frank and open debate about *all* aspects of human rights violations in *all* parts of the world.

We firmly believe that frank debate requires that countries examine not only human rights in other parts of the world but also at home. Human rights are a cornerstone of Canada's foreign policy because they are a cornerstone of the Canadian constitution, Canadian institutions and Canadian society. But we are not perfect. No state is. We recognize that there have been and there continue to be, human rights problems in Canada and we work hard to rectify this and to listen to the advice of others in this regard. That is why we have a standing invitation to the special mechanisms of the Commission to visit Canada, why we are party to all of the major human rights treaties, and why we participate so actively in the Commission on Human Rights.

The human rights standards set by the Commission on Human Rights are an expression of the international communities commonly-agreed values. Some states, by deliberate acts of brutality or repression, place themselves outside this community of shared values. If governments choose to ignore the wishes of their people and rule by force or authoritarian dictate, human rights suffer and the global community as a whole suffers. Rule by law is not the same as rule of law.

The situation in **Afghanistan** is amongst the worst in the world. The massacre of innocent civilians at Yakawlang in January of this year is an affront to human rights. We join the international community in calling on all sides in the Afghan conflict to respect the lives of innocent civilians. Particularly appalling is the officially sanctioned mistreatment of women and girls by the Taliban authorities. Full respect for the human rights and fundamental freedoms of all ethnic and religious groups in Afghanistan is necessary if the Taliban authorities are to reduce their isolation from the outside world.

The human rights situation in **Burma** continues to deteriorate. However, the United Nations recently announced that the State Peace and Development Council and Aung San Suu Kyi have taken the first steps towards a dialogue. Canada remains optimistic but guarded, awaiting concrete progress as a result of these talks. We are particularly concerned by the pattern of unacceptable behaviour demonstrated by the State Peace and

Development Council toward Daw Aung San Suu Kyi and members of the National League for Democracy party. We urge the authorities to take immediate steps to comply with the recommendations of the ILO concerning forced labour. We note that, despite legislative changes made by the State Peace and Development Council in October 2000, the practice of forced labour, especially in the border areas, continues. Canada welcomes the visits of the Secretary-General's Special Representative and supports his efforts to entrench a genuine dialogue involving the State Peace and Development Council and Aung San Suu Kyi and the National League for Democracy. We reiterate our call on Burma to demonstrate genuine commitment to national reconciliation, human rights and the restoration of democracy by entering into a substantive dialogue with representatives of the pro-democracy movement and minority groups.

The government of **Iraq** continues to rule by terror, undertaking indiscriminate arrests, imprisonments and executions in order to maintain its hold on power. Canada urges the government of Iraq to end the arbitrary detention and execution of political and religious opponents, enforced disappearances, torture, denial of freedom of expression and forced displacement and deportation of Iraqi citizens. We also urge Iraq to engage in a dialogue with the Special Rapporteur and to issue him an early invitation in order that he may carry out his mandate.

In **situations of armed conflict** or violent civil unrest, the suffering of civilians becomes the most acute and requires a particularly strong response by the Commission on Human Rights and by the international community.

In the case of **Sudan**, it is the lack of progress in the peace process that directly results in the continuation of serious human rights abuses: civilians continue to be bombed and otherwise forcefully displaced from their homes, famine is again looming, women and children are forcibly abducted, humanitarian organizations are attacked, held hostage or denied access to those in need. We call upon the Government of Sudan and all sides in the ongoing civil war to adhere to their international human rights obligations, to respect international humanitarian law, and to engage seriously in good faith negotiations to resolve the conflict. We are concerned about the possible linkage between the development of Sudan's natural resource sectors and the continuation of the conflict. In this regard, we urge business enterprises active in Sudan to adopt and adhere to practices, (including codes of conduct) consistent with internationally agreed upon human rights and labour standards and to carefully assess their activities in Sudan to ensure they are not directly or indirectly involved in actions that could increase the suffering of the civilian population in Sudan.

Similarly, we remain deeply concerned about the human rights situation in the **Great Lakes region**. In the **Democratic Republic of the Congo**, we note the particular criticism levelled by the UN Security Council at the situation in areas controlled by the rebels, especially those under the control of rebel forces supported by the Government of **Rwanda** and **Uganda**. We call for the full implementation of the Lusaka Agreement and the relevant Security Council resolutions, and more particularly for the unconditional withdrawal of all foreign forces. In that regard, while there are indications that some foreign troops had withdrawn from the front line, we hope for a complete withdrawal of all foreign troops from the DRC so that a just and lasting peace can be achieved for all countries in the Great Lakes region. Canada is also seriously preoccupied by the absence of a cease-fire agreement in **Burundi** and the continued violence perpetrated by all parties against the civilian population. In that regard, we urge the Government of Burundi and the armed factions to negotiate in earnest to arrive at a cessation of hostilities and a cease-fire agreement as soon as possible. We further call upon the Government of Burundi to ensure the rule of law and expeditiously investigate the unclear situation of thousands of prisoners held without charges.

Even in the **aftermath of armed conflict**, it remains difficult to make real progress on the human rights front if a country's security situation remains fragile. At this stage, countries can either move forward towards peace or revert to conflict. The ways in which countries choose to tackle the issue of impunity, build functioning democratic institutions and cooperate with the international community can tip the balance.

Such is the case in **Sierra Leone** where democracy and stability will continue to be threatened until all the provisions of the Lome Peace agreement are adhered to by all parties. Canada remains gravely concerned with the ongoing regional tensions and their impact on the human rights situation in Sierra Leone as well as the humanitarian crisis affecting the Mano River region. However, we are encouraged by the Abuja cease-fire agreement and the stated willingness of the rebels to allow access to UNAMSIL and the Sierra Leonean authority throughout the territory. Canada is further encouraged by the renewed efforts of the Office of the High Commissioner for Human Rights to implement the preparatory phase of the Truth and Reconciliation Commission and the draft Agreement between the Secretary-General and the Government of Sierra Leone for the creation of the Special Court to bring to justice those persons who bear the greatest responsibility for crimes against humanity, war crimes and other serious violations of international law. Ensuring stable, regular budget financing for these initiatives will help ensure their sustainability. Combatting impunity and building democratic institutions are integral to building long-term peace in Sierra Leone.

In other cases peace agreements continue to hold out the prospect for meaningful progress on human rights.

Canada is pleased to acknowledge the signing of a peace agreement between Ethiopia and Eritrea on December 12, 2000. Canadian peacekeepers are deployed with the United Nations Mission with the objective of helping the Governments of Ethiopia and Eritrea establish a lasting peace and restore a mutually beneficial relationship.

Canada urges the government of **Ethiopia** to intensify its ongoing efforts to promote human rights, urges the removal of remaining restrictions on civil society, media and opposition parties, and applauds the establishment of the Ethiopian Human Rights Council. Canada remains concerned over the continued arrest, detainment, and intimidation of journalists in Ethiopia, reports of mistreatment of ethnic Oromos, and reports of human rights abuses in prisons.

We urge the government of **Eritrea** to continue its collaborative efforts with the NGO community, and support the holding of free, multiparty elections in Eritrea in December 2001. Canada remains concerned about restrictions on religious freedom in Eritrea, including the ongoing persecution of Jehovah's Witnesses by the Eritrean authorities. More generally, we are concerned by continued reports of arbitrary arrest and detention without trial.

The past year has seen some improvement of the overall human rights situation in the **Balkans**. We are encouraged that the new democratic government in the **Federal Republic of Yugoslavia** has stated its commitment to universal human rights standards. We are further encouraged by **Croatia's** ongoing reforms in the areas of good governance and the treatment of minorities, though much remains to be done. The recent formation of an interethnic government in **Bosnia and Herzegovina** holds promise for the promotion of human rights, though again, such changes will require determination and considerable effort.

Unfortunately, reforms are slow, partial and do not extend throughout the region. In many areas, the full realisation of minority rights continues to come under threat. Ethnic violence has been particularly virulent in Kosovo. The rise of ethnic Albanian insurgencies in the Presevo Valley and the Former Yugoslav Republic of Macedonia are disturbing developments as they threaten the stability and progress that has been made in region so far. Such resort to violence cannot be tolerated and must be stopped before the troubles are allowed to spread. However, the governments of the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia must do their utmost to ensure the protection of civilians. Moreover, governments should address the legitimate concerns of all ethnic communities within their territory. Canada urges all parties and governments to improve conditions for the return of refugees and IDP's. We believe all countries must cooperate with the International Criminal Tribunal for the Former Yugoslavia to ensure regional stability. There can be no lasting peace without justice.

Where peace processes falter, increasing human rights violations are all too often the consequence.

The dramatic deterioration in the **Middle East** has demonstrated all too clearly the fragility of the peace process there and how the respect for human rights can easily fall victim to violence and terrorism. Recent events have proven once again that when politics and discourse fail, it is people who suffer. Canada has repeatedly called for the cessation of violence and a return to negotiations. Canada believes that the progress made by the Israelis and Palestinians on the core issues of their dispute over the past year must not be lost. The Palestinian Authority and the Government of the State of Israel must refrain from any unilateral actions that could inflame the situation further and must remain committed to dialogue as the only viable way to reach a lasting solution. The success of these political efforts will require all concerned to put the safety, security, human rights and well-being of people first and to recognise that the respect for the human dignity of all people is a fundamental building block in establishing a sustainable peace.

Even in peace time, however, countries are not immune from human rights violations. **Impunity** poses one of the greatest challenges to building sustainable peace and respect for human rights.

In **Côte d'Ivoire**, of particular concern is impunity for state security forces responsible for hundreds of extrajudicial killings. Detentions and extortion are taking place throughout the country, mainly aimed at foreigners from neighbouring countries. Canada joins many other nations in calling for the Government of Côte d'Ivoire to respect their commitments in the areas of governance, human rights and justice.

Canada has concerns about the human rights situation in the Republic of **Togo**; concerns heightened by the conclusions of the UN-OAU international Commission of Inquiry. To achieve any significant improvement in human rights in Togo it is necessary to put an end to the culture of impunity that exists there.

Similarly, the human rights situation in **Zimbabwe** has sharply deteriorated. In the past year, government-condoned violence marred the Parliamentary election process. Most recently the government has harassed the judiciary while tacitly encouraging or condoning violence against its political opponents and the media. The current government has shown repeated disregard for the rule of law, ignoring court orders, the Constitution and the democratic aspirations of its citizens.

Canada is deeply concerned by widespread credible reports of human rights violations by both sides against civilians in **Chechnya** including arbitrary detention, extortion, torture and summary execution. We are disturbed by the difficulty that the international community has faced in verifying such claims. Canada reiterates its call for a quick and transparent investigation of all allegations of human rights violations. We call on the Russian government to increase their funding and support to human rights investigators currently active in Chechnya and to grant increased access to the region to national and international monitors and human rights experts so they can observe the progress of investigations. We call on Russia to facilitate the return of OSCE Assistance Group to Chechnya as it committed itself to do at Istanbul in 1999, and to engage in meaningful dialogue with all the people of Chechnya in order to reach a lasting solution.

In **Sri Lanka**, the conflict continues as the root cause of most serious human rights violations, as well as breaches of international humanitarian law, both by the government and the LTTE. Canada therefore welcomes the efforts undertaken by Norway to facilitate peace talks between the belligerents. We continue to be concerned that, with very few exceptions, members of the security forces who have committed human rights violations continue to benefit from delayed judicial action and perceived impunity. In this regard we find instances, such as the multiple killings of Tamil youth while in the care of government authorities near Bindunuwewa, to be particularly distressing.

In **Indonesia**, the ongoing violence in Aceh and the Government of Indonesia's hardening of its security approach in Irian Jaya continue to be of concern, as are the detention and prosecution of political activists in these provinces. We remain concerned about the plight of some one million people who have been internally displaced within Indonesia. We welcome the Aceh security agreement reached in Switzerland last February and are encouraged by the recent dialogue at the field level. We are concerned, however, about the government's planned security operations in Aceh and their possible impact on civilians. We also welcome the legislation on Human Rights Tribunals, recently adopted by the Indonesian Parliament. We encourage the Indonesian Government to continue to prosecute the perpetrators of human rights violations, including those responsible for the killings of humanitarian workers. We strongly urge the Government of Indonesia to respect its commitment to hold a special tribunal for **East Timor**, consistent with international human rights standards. The international community has consistently expressed its concern about impunity, and without demonstrable progress on this front, confidence in the positive steps Indonesia has taken to date on other fronts will be undermined.

In **Guatemala** we welcome the commitments made by President Portillo upon his inauguration in January 2000 and his subsequent recognition of Guatemalan state responsibility for a number of past human rights violations, as well as the work being done by the Presidential Commission for Executive Policy in matters of human rights. We are deeply concerned, however, by increasing incidents of threats and physical assaults against human rights and political activists, journalists and judicial officials and witnesses over recent months — these incidents, combined with relatively slow and uneven progress, notably in addressing impunity, in implementing the 1996 Accords, risks undermining Guatemala's significant achievements. We urge the Government of Guatemala to take resolute action in addressing these problems and make clear its determination to respect commitments made under the Accords for the benefit of all Guatemalans.

Mr. Chair, international human rights norms are the standard against which all countries must be assessed and against which all countries will sometimes be found wanting. Cooperation with international human rights mechanisms, willingness to ratify international human rights treaties and enter into constructive dialogue with the Office of the High Commissioner for Human Rights are all part of building respect for the international rule of law.

In **China**, we remain very concerned about: the scale and frequency of restrictions on freedoms of expression, association and religion, especially in Tibet and Xinjiang; the continued application of the death penalty for non-violent crimes; the harsh sentencing of dissidents; and restraints on the activities of labour unions. We welcome China's recent ratification of the International Covenant on Economic, Social and Cultural Rights and urge China to assign high priority to its implementation, but we regret the accompanying declaration which weakened the effect of the ratification. We similarly welcome the Memorandum of Understanding signed between China and the High Commissioner for Human Rights. We look to China to match these two positive developments with the ratification and implementation of the International Covenant on Civil and Political Rights.

We welcome the fact that the **Saudi Arabian** Government is paying greater attention to international human rights standards, as illustrated by its decision to ratify the Convention on the Elimination of All Forms of Discrimination against Women last summer. However, we would hope that Saudi Arabia would lift its reservations on this and other international human rights covenants and that

it will cooperate with the mechanisms of the CHR. We also remain concerned with the relatively high incidence of executions and corporal punishment in the Saudi penal system. Detainees and accused should be given better access to legal counsel at an early stage. We continue to hope that the Saudi Government's increased engagement with the international community on human rights issues will translate into respect for human rights in Saudi Arabia which is more consistent with universal human rights standards, particularly in the administration of justice.

We regret to note that there has been no substantial improvement in respect for internationally recognised political and civil rights in **Cuba** over the past year. Canada remains deeply concerned that individuals continue to be harassed, detained and imprisoned for activities that are completely legitimate within the terms of Cuba's own international human rights commitments to its own people. Specifically over the past year, there has been an intensification of measures to control non-violent dissent, including the increasingly frequent use of short-term detentions. Canada encourages Cuba to open greater space for peaceful political dissent, and freedom of opinion and expression; and to expand its dialogue with the Church and other members of its nascent civil society.

In **Iran**, President Khatami's plans for a tolerant, law-abiding and democratic society are facing significant challenges. Canada hopes Iran will accept the UN Special Representative's request to visit, thus showing its commitment to transparency and cooperation with the Commission. The past year has seen a serious attack on the freedom of the press and on political freedoms as scores of reformers have been arrested and convicted by an increasingly politicized Judiciary. Canada continues to hope that the commitment to democratic ideals of Iran's elected officials will be reflected by increased respect for human rights, particularly on the issues of women's human rights, freedom of opinion and expression, and freedom of religion. Despite some recent positive changes, we remain concerned by the ongoing discrimination against Baha'is for practising their faith. We were also extremely concerned by the lack of transparency and the failure to abide by recognized international standards of due process of the trials of 13 Jews and 4 Muslims in Shiraz on espionage charges.

Where the domestic infrastructure needed to protect and promote human rights is absent or inadequate, the role of the international community in providing technical assistance and ensuring continued monitoring is of critical importance.

In **Colombia**, we commend the recent efforts by President Pastrana to revive the peace process with the FARC and welcome progress in talks with the ELN. However we are gravely concerned by the escalation of the conflict and deteriorating human rights situation, in particular the increased number of killings and other abuses of international humanitarian law by the paramilitaries and the guerrilla against human rights defenders, trade unionists, and journalists. We also condemn in the strongest terms the continued recruitment of child soldiers by the guerrillas. The common voice of humanity calls upon these leaders to cease this horrifying practise which runs counter to even the most minimal standards of decent human behaviour. We call on the Government of Colombia to bring to justice those responsible for threats and acts of murder, and to sever any links with the paramilitary. We strongly support the permanent office of the High Commissioner for Human Rights in Bogota and underline the need for increased financial support to permit the opening of regional field offices.

Canada is worried by the evolution of events in **Haiti**, such as the recent demonstrations and violence, and is fearful of their impact on the prospects for democratic political, economic and social development there. Canada calls on the new Haitian government to ensure respect for human rights, notably in the areas of freedom of expression, impunity, justice, prison operation and the activities of the police. The government has yet to adequately address the problems of the May 21st legislative elections and take measures to strengthen democracy, including through meaningful dialogue with the opposition. Although the presence of UN missions in Haiti has ended recently, Canada hopes for continued monitoring and assistance on human rights.

We urge the military government of **Pakistan** to implement the fundamental political, economic and administrative reforms necessary for the protection and enhancement of human rights. The military government must implement its commitments to the transition to democracy. Serious human rights violations affecting women and religious minorities in Pakistan remain common. Particularly abhorrent are the continued widespread use of child labour and the "Blasphemy Law" which has been used to harass innocent citizens. We commend the government for adopting a National Policy and Plan of Action for the Elimination of Child Labour, and urge Pakistani authorities to fully implement this Plan.

Many concerns remain about the human rights situation in **Cambodia**, including incidents of political violence and

threats to individual security during serious armed clashes last November. We urge the Cambodian government to ensure that next year's commune elections are peaceful and to assist the new Special Representative of the Secretary-General for human rights in Cambodia, in carrying out his mandate. We welcome the recent passage of legislation by the Cambodian government that will establish a tribunal through which to address war crimes committed during the Khmer Rouge period. We encourage Cambodian officials to continue working with the UN to ensure that the tribunal is internationally credible.

We commend efforts by the **Vietnamese** government to address corruption and to make improvements in the area of human rights. Results such as allowing several peaceful demonstrations and a recent general assembly of protestant Christians are modest but demonstrate willingness. We remain concerned, however, about the treatment of ethnic groups and limitations on political and religious freedoms, particularly, in the latter instance, for Buddhists and Christians. We encourage the government of Vietnam to make further progress in granting official recognition to religious organizations and in allowing for greater religious and political expression by its citizenry.

Canada continues to be concerned about the human rights record of the **Democratic People's Republic of Korea (DPRK)**. We welcome the DPRK's interest in dialogue through the strengthening of its international relations. Consequently, in February 2001, Canada and the DPRK established diplomatic relations which Canada believes will help better integrate the DPRK into the world community. Canada looks forward to opportunities to discuss human rights with the DPRK.

Mr. Chairman,

Ultimately, the final obligation for respecting human rights rests with us — with member States. And ultimately no government in the world can avoid its responsibility to put in place the policies and institutions to protect and promote the human rights of its citizens. However, our common responsibility — as members of the UN and especially of this Commission — goes farther to address human rights in all parts of the world. As Kofi Annan has said, "too many voices remain unheard, too much pain persists and too many additional opportunities for human betterment are forgone for us to rest satisfied with the way things work today." No country in the world, and certainly not my own, is beyond criticism for its human rights record. Canada's participation in this debate is inspired by the wish to live up to that obligation and to promote the broadest possible cooperation to that end.

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(HANSARD)

Wednesday, October 31, 2001

THE HONOURABLE DAN HAYS
SPEAKER



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THE SENATE

Wednesday, October 31, 2001

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

UNITED NATIONS

WOMEN, PEACE AND SECURITY, RESOLUTION NO. 1325

Hon. Lois M. Wilson: Honourable senators, Canada was on the UN Security Council when it unanimously adopted Resolution 1325 on Women, Peace and Security just one year ago today, October 31, 2000. The resolution is the first of its kind to deal exclusively with issues of women, peace and security as a result of intensive years of work by governments, NGOs and UN agencies. It sets out a comprehensive agenda that includes the need for full and equal participation of women in peace processes and peace building, and gender sensitive training for personnel involved in Peace Corps operations. The UN has asked Canada to play a coordinating role in bringing the UN, its member states and the NGOs together to help implement the resolution. Next spring, two significant reports on the impact of armed conflict on women, one by the Secretary-General of the UN and the other by UNIFEM, will be released just prior to the G8 foreign ministers' meeting.

While it is true that women are often primarily the victims of today's conflicts, we want to ensure that Canada's focus is not restricted to the problem of the victimization of women but encompasses also the positive contributions that women can make. Canada has, therefore, struck a committee on Resolution 1325 made up jointly of parliamentarians, government officials from six departments and agencies, NGOs and academics. It has identified the following priority issues.

The first is appropriate training in gender sensitivity of civilians and military in peacekeeping missions, based on the existing Gender Training Initiative currently used by the Department of Foreign Affairs.

The second is advocacy, which would advocate the possibility of the UN appointing a special assistant for the purpose of monitoring and implementing its own resolution.

The third is capacity building, which will develop a roster of Canadian women who could be appointed to key posts on negotiating teams internationally, since currently so few women enjoy these appointments. We will also press for appointments of women from countries with which Canada has partnerships.

The fourth is legal affairs and peace negotiations, which would ensure that a gender perspective is part of international human rights law.

Senators and MPs will be involved in this important process. If any senator wishes to become more involved, please speak to me afterwards. We will keep the Senate updated as this important work progresses.

THE HONOURABLE PEGGY BUTTS

CONGRATULATIONS ON RECEIVING HONORARY DEGREE FROM MOUNT SAINT VINCENT UNIVERSITY

Hon. Gerard A. Phalen: Honourable senators, I am pleased during my first intervention in this chamber to pay tribute to a fellow Cape Bretoner, the Honourable Sister Peggy Butts.

In recognition of her commitment to social justice, to women's and children's issues, to public policy and for years of work with the poor, Mount Saint Vincent University of Halifax, Nova Scotia, recently conferred on Sister Peggy Butts the honorary degree of Doctor of Humane Letters.

I have known for many years that Sister Peggy was a remarkable woman, with an amazing number of accomplishments. Sister Peggy Butts earned a Ph.D. from the University of Toronto. She taught political theory and Canadian government for 18 years at the University College of Cape Breton. She was a founding member of the Cape Breton Transition House, a women's shelter, and a founding member of the Eastern Regional Health Board of Nova Scotia. Sister Butts was appointed to the Senate of Canada, and through it all, she has been a tireless advocate for the disadvantaged, for women and children, and for social justice.

● (1340)

When I heard recently about Mount Saint Vincent honouring Sister Peggy, I knew this was just the most recent in what I am sure will be many acknowledgements of her contributions to our country.

It is regrettable that this place was blessed with Sister Peggy for such a short time. Although our times in the Senate did not coincide, I am fortunate to have been associated with Sister Peggy and consider myself to be one of her many friends.

Please join me, honourable senators, in commending Mount Saint Vincent University for bestowing this most deserved recognition and in congratulating the Honourable Sister Peggy Butts.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before continuing with Senators' Statements, I should like to draw your attention to the presence in the gallery of Dr. Win Hackett and the students of Rothesay Collegiate School, Netherwood, New Brunswick.

On behalf of all honourable senators, I bid you welcome.

THIRTIETH ANNIVERSARY OF MULTICULTURALISM ACT

Hon. Sheila Finestone: Honourable senators, I should like to complete my observations on the statement of the thirtieth anniversary of the Multiculturalism Act delivered last Thursday, October 25, 2001.

I am sure honourable senators will recognize the important role that some of you and your predecessors played, particularly Pierre Elliott Trudeau, Brian Mulroney and the Honourable Stanley Haidasz, who in 1972 was the first Minister of State for Multiculturalism, charged with the implementation of its many programs.

As Senator Haidasz stated during the Senate debate of June 7, 1990:

From the dawn of history of this vast land that we now call Canada there existed cultural diversity.

He went on to say:

This policy of multiculturalism was made in response to the recommendations found in Volume IV of the Royal Commission on Bilingualism and Biculturalism...to expand the royal commission's mandate to include the contributions of other ethnic groups in the development of Canada.

He further said:

...the reality of multiculturalism has always existed in Canada, beginning with the diversity of native peoples, followed by the arrival of explorers from various countries and reinforced by waves of immigrant settlers around the world.

Honourable senators, we are a unique, evolving, post-modern experiment that, however far from completion, holds the promise of greater achievement in the exercise of those democratic and humanistic values we hold so dear and that builds the unity of our country.

As Dr. Dyane Adam, Commissioner of Official Languages, recently stated:

...with globalization, the importance of being open and to understand other cultures is of growing importance...Canada is just starting to see the kind of benefits that come from having two official languages, both of which are world languages...

Indeed, the achievement of the Multiculturalism Act endorsed by and for Canadian people is clearly reflected in our bilingualism and social pluralism. With our cultural mosaic, where unique parts fit together into the unified whole, ethnicity, diversity of traditions, customs and mores, ancestral beliefs, religions and creeds, saris, kimonos, kippot and hijabs do not undermine or fragment the Canadian identity. Rather, they are the Canadian identity, since multiculturalism is woven a priori into the fabric of our Canadian life.

ROUTINE PROCEEDINGS

MISCELLANEOUS STATUTE LAW AMENDMENT PROPOSALS

REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. Lorna Milne, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Wednesday, October 31, 2001

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

NINTH REPORT

Your Committee, to which was referred the document entitled "Proposals to correct certain anomalies, inconsistencies, and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal an Act and certain provisions that have expired, lapsed or otherwise ceased to have effect" (*Proposals for a Miscellaneous Statute Law Amendment Act, 2001*) has, in obedience to the Order of Reference of Tuesday, June 5, 2001, examined the said Proposals and now reports the same, with the following comments:

The MSLA Process

The Miscellaneous Statute Law Amendment Program (MSLA) was initiated in 1975 to allow for minor, non-controversial amendments to federal statutes in an omnibus bill. Since then, nine sets of proposals have been introduced and nine Acts have been passed. The 2001 Proposals are thus the tenth series of proposals in the program.

Requests for amendments are forwarded to the Legislation Section of Justice Canada, primarily by federal departments and agencies, although anyone can propose an amendment if it meets the program's criteria. To be included, the proposed amendments must meet certain criteria. They must:

- not be controversial;
- not involve the spending of public funds;
- not prejudicially affect the rights of persons;
- not create a new offence; and
- not subject a new class of persons to an existing offence.

The proposals are tabled in the Senate and the House of Commons, and referred to the Standing Senate Committee on Legal and Constitutional Affairs and the House of Commons Standing Committee on Justice and Human Rights. If any member of either Committee objects to a proposal, for any reason whatsoever, that proposal is withdrawn. The tenth set of proposals was tabled in the Senate and referred to this Committee on June 5, 2001.

After the two Committees have studied the proposals, a Miscellaneous Statute Law Amendment bill is prepared, omitting any clauses to which a member of either Committee objected. It is generally expected that this bill will receive speedy passage through Parliament, since any potentially offensive clauses have been removed.

The 2001 Proposals contain 115 individual clauses, affecting over 40 Acts. Four clauses were withdrawn at the request of the initiating department (clauses 33 to 34, which would have amended the *Canadian Environmental Protection Act*, and clauses 72 to 73, which would have amended the *National Capital Act*). Your Committee objected to seven proposals, which will be withdrawn. A detailed description of the clauses to which your Committee objected and the reasons for the objection are contained in Appendix "A".

Your Committee was concerned about the relatively large number of proposals that were potentially controversial. For example, several proposals suggested the removal of an approval requirement, either by Governor in Council or by Treasury Board, for matters involving the public purse. Another proposal would have repealed a reference to a Parliamentary review of an Act when it could not be substantiated that the review had taken place. In a number of instances, specific information came to your Committee's attention only during the hearings on the proposals.

An example of the difficulties experienced by your Committee can be found in the proposals to amend the *Nuclear Safety and Control Act*, proposals which your Committee ultimately approved. Two of these proposals would eliminate the requirement for Treasury Board approval of various expenditures, and on the face of the information available when the proposals were tabled, appeared potentially controversial. A third proposal would give the Commission legislative discretion to authorize the return to work of an employee who "may have" received an excessive dose of radiation, raising issues of safety and employee rights. Initially, several members of your

Committee expressed concerns that these proposals appeared controversial.

However, the Canadian Nuclear Safety Commission made available to your Committee several senior expert witnesses who were in a position to fully explain the background and circumstances. These witnesses explained in detail why the agency felt that the proposals were non-controversial. They also provided your Committee with a package of background information, including a series of Orders in Council delegating to the Commission and its predecessor the powers technically exercised by Treasury Board over employees. This enabled your Committee to make a determination that the proposed amendments did indeed fall within the framework of the Miscellaneous Statute Law Amendment Act (MSLA) process.

Unfortunately, your Committee dealt with a number of other potentially controversial proposals for which the same quality of information was simply not available. While testimony from the Department of Justice is invariably helpful, your Committee often requires the in-depth knowledge of the sponsoring department to fully assess whether the various proposals fall within the framework of the MSLA process. Your Committee feels that an explanatory presentation by senior officials from the sponsor of the proposal serves the interests of both the Committee and the sponsoring department or agency.

Your Committee has been following the MSLA process closely for many years. Overall, we have been heartened by the extent to which the Department of Justice has respected the recommendations of your Committee. We take satisfaction in the major impact that the reports of this Committee have had on improving the MSLA process. However, we feel that the approach to this most recent set of proposals gives cause for concern.

In our report on the 1990 proposals (36th report, 34 Parliament, 2nd Session, 28 February 1991), your Committee made the following recommendation:

"The Proposals deal with two different types of amendments:

- non-substantive anomalies, inconsistencies, archaisms, errors, and the repeal of spent enactments;

- miscellaneous amendments and repeals of a non-controversial and uncomplicated nature...

"Most of the contentious proposals fall within the second category, and are initiated by the department administering the legislation rather than by the Department of Justice itself. This category requires closer parliamentary scrutiny, since it can easily contain amendments that are substantive rather than technical. What appears non-controversial and uncomplicated to the department administering the legislation may appear both controversial and complicated to members of the public affected by the amendment.

"For these reasons, your Committee recommends that in future the Proposals be divided into two Parts: one to deal with the true anomalies which should not be substantive; and the other to deal with miscellaneous uncontroversial amendments and repeals, which might be substantive as long as they otherwise meet Justice criteria."

Your Committee suggests that the time may have come to revisit this recommendation. While the majority of the present proposals are non-substantive and non-controversial, there was insufficient information available to your Committee in advance of the hearings to properly deal with those proposals that were substantive. While the explanatory notes provided by the Department of Justice were appreciated, your Committee feels that substantive proposals, even if they are uncontroversial, should be accompanied by background information prepared by the sponsoring department. More specifically, we make the following recommendations:

1) Any proposals that involve the removal of an approval requirement should be considered potentially controversial, particularly where public monies are involved, and Parliamentary Committees should have all of the relevant information at the time the proposals are tabled.

2) Where spent enactments are to be repealed, a witness from the sponsoring department should be available to explain the background, and confirm that the enactment is indeed spent.

3) References to a parliamentary review of legislation should not be repealed unless there is written documentation that the review has indeed taken place.

Appendix "A"

Clauses objected to and withdrawn

ACT: Atlantic Canada Opportunities Agency Act

Clause 5, amending section 6(2), would have eliminated the requirement that the Governor in Council approve agreements between the Minister of Industry and one or more of the Atlantic provinces.

Clause 7, amending section 13, would have allowed the Atlantic Canada Opportunities Agency (ACOA) to enter into arrangements with the Enterprise Cape Breton Corporation (ECBC) allowing the Corporation to exercise the powers of the Agency, "including the power to enter into agreements that commit moneys appropriated by Parliament for the purposes of the Agency."

Clause 8, amending section 19(1), would have replaced the requirement that the Board of ACOA meet at least every three months with a requirement that they meet at least once a year.

Your Committee objected to these three clauses on the grounds that they were substantive in nature and controversial.

ACT: Energy Monitoring Act

Clause 59, repealing section 42, would have repealed the section requiring that the Act be reviewed by a Committee of the House of Commons.

Your Committee felt that references to a parliamentary review of legislation should not be repealed unless there is written documentation that the review has indeed taken place.

ACT: National Energy Board Act

Clause 74, amending the definition section, would have transferred certain responsibilities with respect to navigable waters from the Minister of Transport to the Minister of Fisheries and Oceans.

Your Committee felt that there was insufficient information before them to deal with this clause.

ACT: National Film Act

Clause 75, amending section 13(4), would have repealed the requirement that the appointment of staff with a salary over a certain amount, set by Governor in Council, be approved by the Governor in Council.

Your Committee felt it should uphold the principle that, over some level, public representatives ought to be approving the spending of public money.

ACT: Yukon First Nations Self-Government Act

Clause 108, amending section 10(6), would have amended the French version of the section to bring the two linguistic versions into conformity.

Your Committee was not convinced that the proposed change improved the Act. This section deals with an important and sensitive policy issue, the nature of enactments by First Nations as a subordinate or parallel authority. A clearer explanation would be required to justify the proposed change.

Respectfully submitted,

LORNA MILNE
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Milne: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(g) of the *Rules of the Senate*, I move that this report be placed on the Orders of the Day for consideration later this day.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

NATIONAL HORSE OF CANADA BILL

REPORT OF COMMITTEE PRESENTED

Hon. Leonard J. Gustafson, Chair of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Wednesday, October 31, 2001

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

SIXTH REPORT

Your Committee, to which was referred Bill S-22, An Act to provide for the recognition of the *Canadien* Horse as the national horse of Canada, has, in obedience to the Order of Reference of Monday, June 11, 2001, examined the said Bill and now reports the same with the following amendments:

1. *Page 1, long title:* Replace the long title with the following:

“An Act to provide for the recognition of the Canadian horse as the national horse of Canada”.

2. *Page 1, preamble:*

(a) Replace line 1 with the following:

“WHEREAS the Canadian horse was in-”;

(b) Replace line 6 with the following:

“WHEREAS the Canadian horse in-”;

(c) Replace line 12 with the following:

“known the Canadian horse have made clear”;

(d) Replace line 17 with the following:

“WHEREAS the Canadian horse was at”;

(e) Replace lines 24 and 25 with the following:

“re-establish and preserve the Canadian horse;”;
and

(f) Replace line 28 with the following:

“the Canadian horse in the history of Canada”.

3. *Page 2, Clause 1:* Replace, in the French version, lines 1 and 2 with the following:

“1. Loi sur le cheval national du Canada.”

4. *Page 2, Clause 2:*

(a) Replace, in the French version, the heading preceding clause 2 with the following:

“LE CHEVAL NATIONAL”; and

(b) Replace lines 3 and 4 with the following:

“2. The horse known as the Canadian horse is hereby recognized and de-”.

Respectfully submitted,

LEONARD J. GUSTAFSON
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Gustafson, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

ADJOURNMENT

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Thursday, November 1, 2001, at 1:30 p.m.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

[English]

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Lorna Milne: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at 3:30 p.m. today, Wednesday, October 31, 2001, for the purpose of its examination of Bill C-7, An Act in respect of criminal justice for young persons and to amend and repeal other Acts, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

• (1350)

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

QUESTION PERIOD

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—UNBUNDLED PROCUREMENT PROCESS—DELIVERY SCHEDULES

Hon. J. Michael Forrestall: Honourable senators, my question is to the Leader of the Government in the Senate. Had we had access yesterday to the Chief of the Defence Staff, these questions might have been put to him. However, since he was busy talking to the press, editorial boards and whatnot, I will have to return to my favourite source for information.

Why did the government decide to proceed with an unbundled procurement process to replace the Sea King fleet when the government knew two months prior to announcing the Maritime Helicopter Project that the Sea King fleet would not be replaced until late 2009 or early 2010?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, with the greatest respect to the honourable senator, that was not the information we were given yesterday. We were informed by the excellent witnesses who appeared before us that all efforts would be made to get the first helicopter up in place by 2005, and they would be arriving on a month-to-month basis thereafter.

Senator Forrestall: Why did the Ministers of Public Works and National Defence announce that they would start replacing the Sea King fleet in 2005 when the government's own documents, the Maritime Helicopter Project schedule options, BV and MS scenarios, dated June 15, 2000, states that the first delivery of a prime mission vehicle will not take place until September 2007 and the last in December of 2009?

Senator Carstairs: Honourable senators, the information we were given yesterday was the most up to date on the procurement strategy. That strategy is hoping for a procurement that will begin on or about the year 2005, and every effort will be made to deliver the first aircraft in 2005.

Senator Forrestall: As a final supplementary question, can I assume or draw from what the Leader of the Government in the Senate has indicated to us that the documents I have referred to and the schedules I have referred to were schedules outside of the government's capacity to fulfil?

Senator Carstairs: Honourable senators, I will repeat — and one does not like to do that very often in this chamber — that every effort will be made to secure the first aircraft in the year 2005, and that proviso will be part of the whole process of the bidding and the interaction between government and the ultimate supplier.

Senator Forrestall: Will you apologize if that does not happen?

REPLACEMENT OF SEA KING HELICOPTERS— UNBUNDLED PROCUREMENT PROCESS— CONTRACTS FOR CANADIAN COMPANIES

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. It relates to helicopters, again.

The government has stated that the reason it decided to proceed with the unbundled procurement was to allow Canadian companies a chance for greater participation. Why does the Maritime Helicopter Project Procurement Options Impact Analysis of April 12, 2000, prepared by Public Works and Government Services Canada, state otherwise and list only foreign companies for airframe and mission systems?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, again, we received a good explanation yesterday when Ms Jane Billings — I think it was Ms Billings but it may have been Mr. Williams — indicated that companies would be functioning in Canada. She did not necessarily indicate they would be Canadian companies, but they would be companies operating on a significant basis in this country.

Senator Stratton: I guess that is the clarity case that Canadians need to know. For example, why do Public Works and Government Services questions and answers Maritime Helicopter Acquisition, dated June 23, 2000, list only foreign companies for both airframe and mission systems?

Senator Carstairs: Honourable senators, one must clarify what is meant by "a foreign company." If that company has significant operations in Canada, then we consider it to be an important contributor to the economic activity, particularly regional economic activity, in this country.

Senator Stratton: Honourable senators, under the original EH-101 helicopter contract given out by the previous government, Winnipeg, for example, was to get a \$400-million contract. I have forgotten the number of man years that would have been created as a result of that contract. That is the issue that concerns Canadians. That is the issue as well that was concerning members on the leader's side throughout the questioning yesterday in Committee of the Whole. At least three or four senators asked that specific question. How do we come to the conclusion that the process the government is carrying out right now will lead to the awarding of a contract of \$400 million to a Winnipeg company and guaranteed jobs for Winnipeggers for 10 years?

Senator Carstairs: Honourable senators, if it were not an unbundled contract, then all of it would go to non-Canadian corporations without any significant operational activity in Canada. The fact that it is unbundled means there are more companies with strong economic activity bases in this country that will have the opportunity to bid.

Senator Stratton: If the last procurement under the previous government could provide such opportunity to Canadian companies with a single contract, could the leader tell me what has changed so dramatically since then where the government cannot do the same? I fail to see that answer as sufficient.

Senator Carstairs: With the greatest of respect to the honourable senator, the biggest change that has happened is that Canadians have been fortunate enough to have a Liberal government rule for the past eight years.

Senator Stratton: That is a good answer.

AGRICULTURE AND AGRI-FOOD

PRINCE EDWARD ISLAND—AID FOR DROUGHT-STRICKEN FARMS

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. It relates to the agricultural sector.

As Senator Gustafson has brought to the attention of honourable senators on many occasions, the farm sector in Canada is in crisis, through drought, flooding, burden of border crossing problems and appropriate market price for product. Today, honourable senators, my question relates to a recent report that Prince Edward Island Federation of Agriculture will be lobbying the federal government for financial assistance for farmers who suffered from last summer's drought. The executive director of the P.E.I. Federation of Agriculture, Doug Leclair, estimates that the total cost of drought-related crop failures to farmers is \$62 million. About \$50 million of this crop failure is among potato farmers. Farmers will not know what the final total numbers will be until their crops are harvested in a number of weeks from now. Could the Leader of the Government in the Senate please advise us what the government plans to do to help these farmers who have been stricken with drought?

• (1400)

Hon. Sharon Carstairs (Leader of the Government): There are a number of initiatives underway already, honourable senators. That applies not only to Prince Edward Island farmers but to farmers in each and every one of the provinces and wherever farming exists in the territories as well. The first and foremost of those initiatives is crop insurance.

It has been interesting to note that in the province of Saskatchewan this year, crop insurance is compulsory in order to qualify for some other benefits, which led to 72 per cent of the farmers actually joining up.

Unfortunately, Canadian farmers have not taken advantage of crop insurance in the past as often as I think they should. That is simply one program. The other, of course, is NISA, the accounts of which have been building up over a great number of years and in which there is now \$3.2 billion. Of that \$3.2 billion, \$1.3 billion is available just for this crop year. I must say that to date over \$216 million of that amount has been withdrawn by the farmers of this country. It is important for us to understand that the program was put into place for exactly this kind of emergency.

Monitoring is continuing between the Department of Agriculture and farm groups, such as the Prince Edward Island agricultural producers, to see if further help is needed.

GOVERNMENT RESPONSE TO FARM CRISES

Hon. Leonard J. Gustafson: Honourable senators, I was pleased to hear the Leader of the Opposition mention that in addition to the Maritimes and Prince Edward Island, the situation in the Prairies is very serious. The Leader of the Government in the Senate mentioned earlier in regard to helicopters that we have been fortunate to have eight years of Liberal government. These eight years of Liberal government have struck a pretty serious blow to farmers and to agriculture. If the government were to put back in the same amount of money as it took out to balance the books, agriculture would be in pretty good shape.

Crop insurance, at least in Saskatchewan, does not cover the extensive losses. A farmer can insure probably 14 bushels in "continuous cropping" and that does not cover the input costs.

I do not blame entirely the Minister of Agriculture for the problems that are not being solved. This negligence is bigger than just the Minister of Agriculture. The Government of Canada has not been looking at the situation seriously.

In their discussions, are the cabinet and the Prime Minister looking at this situation as a national crisis?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I think it is clear from the number of programs with which the federal government has responded in the past that the agricultural community and the rural communities that depend on that agricultural throughout have been a concern of this government.

I do not suggest, nor do I believe for one minute that the member opposite is suggesting, that we should return to the \$44-billion deficit that we were running in this country in 1993 when this government came to power and which it has managed to eliminate.

Hon. Terry Stratton: Thanks to the surplus and thanks to Canadians.

Senator Carstairs: Yes, that had an impact on farmers. It had an impact on a lot of Canadians. That is why the Canadian people deserve credit for the fact that the books in Canada are in much better shape today than they were then.

As to the honourable senator's question, let me assure him that the concerns of farmers in this country are regularly discussed at the cabinet table and in cabinet committee.

Senator Gustafson: Honourable senators, is the government aware, through the Leader of the Government in the Senate, that the agricultural fallout, especially the loss of young farmers, will be very significant?

We lost 22,000 farmers last year in Saskatchewan alone. That fallout is small compared to what will happen this year after the drought. Many of the remaining farmers will not survive, which will have national implications. Farmers spend money; they create jobs; they buy machinery. They do the things that help this country to maintain a labour force. I wonder if the government is really looking seriously at the situation and at how great the fallout will be.

Senator Carstairs: Honourable senators, we have been losing farmers at a fairly rapid rate for a long period of time. I do not think Senator Gustafson would argue. The last statistic I saw — and he may have a more recent one — stated that the average farmer in this country is now 57 years old. He is quite right when he talks about the fact that young farmers are not coming on stream as they were 30 or 40 years ago.

This is no longer a rural society, senators. It is an urban society. Having said that, Canadians value the work that is performed by our agricultural producers. They know it is important to our lifestyle as Canadians. The government is also aware of that.

Senator Gustafson: Honourable senators, I am very pleased to hear the minister acknowledge that fact, because farmers, some of whom are in their 60s and 70s, are telling us that they have never worked harder in their lives to try to maintain the farm. In family after family, the young people have left the farm for other occupations because they have no other choice. They leave because they do not see any hope or any vision for the future. Can the country afford to let this happen, or will this situation become a national crisis?

We have been talking in the last few days about terrorism. We must deal with that issue. National security is very important, but food is also a national security issue. It is very important to Canada and very important to the world.

Senator Carstairs: Honourable senators, I thank Senator Gustafson for those comments because I agree with every one of them. I can assure him that those comments are represented at the cabinet table. I believe in them as he believes in them.

The reality today is that most children think food comes from the grocery store. They do not understand the dynamic of what farmers are doing.

The honourable senator is quite right. When the average age of our farmers is 57, there are many farmers in their 60s and their 70s who do not have the same capacity to do what they did when they were 25 or 30. That dynamic is being discussed, and I can

assure the honourable senator that I will make continued representations to the cabinet on this issue.

SECURITY AND INTELLIGENCE

LIST OF TERRORISTS AND TERRORIST GROUPS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, it appears that the Solicitor General has not learned a lesson from another era, that "loose lips sink ships." Yesterday, in the other place, he stated:

Let there be no illusion, there are people in this country who belong to terrorist groups.

Not wanting the minister to follow in the steps of his predecessor with loose lips, if he wishes to make these kinds of statements, he should realize that they place a cloud over many Canadians.

My question is: How many people in this country, according to this government, belong to terrorist groups?

• (1410)

Hon. Sharon Carstairs (Leader of the Government): The honourable senator asks a very important question. We would be naive in the extreme if we did not accept the fact that there are probably some terrorists among our communities from coast to coast to coast. That is why we have organizations like the RCMP and CSIS monitoring the activities of certain Canadians who are suspect. That is why there have been some arrests made across the country.

However, it would be wise for all Canadians to be very careful about making inaccurate statements or statements that might lead to an inaccurate forecasting of the number of terrorists among us.

Senator Kinsella: When the Solicitor General says that there are people who belong to terrorist groups in Canada, does he consider Sinn Féin a terrorist group?

Senator Carstairs: As far as I know, the Sinn Féin, as it exists now, is a political party. It has not been placed on the terrorist list. The honourable senator knows that various groups at various times have had various incarnations throughout the world. Individuals sometimes called terrorists are later greeted as great national and international heroes. To answer the specific question, Sinn Féin is not considered a terrorist group at this moment.

Senator Kinsella: Is the IRA on the list? Is it considered a terrorist group?

Senator Carstairs: The IRA is not considered a terrorist group.

Senator Kinsella: Can the minister tell us whether the Solicitor General believes that the provisional wing of the IRA is a terrorist group?

Senator Carstairs: To the best of my knowledge, there has been no such listing of the provisional group, but I stand to be corrected on that. I will try to obtain that information for the honourable senator.

[Translation]

Senator Kinsella: Is this list available to members of the cabinet, or is it available to members of Parliament? Where is this list? Who is the guardian of the list?

Senator Carstairs: Honourable senators, my understanding is that CSIS is the guardian of this list. I have not seen such a list. Therefore, I could not make such a list available to the honourable senator.

LEGALITY OF COMPILING LIST OF TERRORISTS AND TERRORIST GROUPS

Hon. A. Raynell Andreychuk: I have a supplementary question, honourable senators. The minister has been referring to a list. Can she tell us under what legal provision a list would be contemplated and kept before Bill C-36 is given effect?

Hon. Sharon Carstairs (Leader of the Government): Honourable senator, historically, as I understand it, CSIS and the RCMP have kept lists of suspected terrorist groups. The questions about the lists, as you know, came from Senator Kinsella. In terms of my understanding, however, it is within the purview of the RCMP and CSIS.

Senator Andreychuk: Under what regulation, policy or act can these lists, pursuant to the RCMP and CSIS, be given to the public?

Senator Carstairs: To my knowledge, senator, they cannot be given to the public.

LIST OF TERRORISTS AND TERRORIST GROUPS

Hon. Consiglio Di Nino: Honourable senators, in answer to Senator Kinsella's specific questions on a number of organizations and whether they were or were not on the terrorist list, the minister gave specific replies. Subsequently, she said that she had not seen the list. I wonder if the leader could tell us, because I am confused, how she would know that the IRA or the IRA provisional wing or other organizations that Senator Kinsella asked about were or were not on the list when she had never seen it.

Hon. Sharon Carstairs (Leader of the Government): That is exactly why I said nothing about the provisional wing and indicated so to the honourable senator. Sinn Féin, as honourable senators know, is a political party and is recognized as a political party not only by the Irish but by the United Kingdom and Canada. Therefore, I must say I am making an assumption that it is considered a political party.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, we would first like to consider the report of the Standing Committee on Legal and Constitutional Affairs, presented earlier by the Honourable Lorna Milne. We will then return to orders of the day.

[English]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I simply rise to make an appeal to my honourable colleague. My copy of the ninth report has just landed on my desk. I have been known to rapid-read and miss many points. I would want to read this a little carefully and try to catch a few of the salient points. It is four pages. I need an hour. Could we move this item to later this day?

Hon. Sharon Carstairs (Leader of the Government): Absolutely.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, since we are still trying to satisfy all senators, including those in opposition, we will do everything to ensure they are given time to read this report. We would then like to begin with Bill C-11.

Senator Kinsella: Honourable senators, I thank the Deputy Leader of the Government, who is always open to good opposition suggestions in this house.

IMMIGRATION AND REFUGEE PROTECTION BILL

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cordy, seconded by the Honourable Senator LaPierre, for the third reading of Bill C-11, An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger.

And on the motion in amendment by the Honourable Senator Andreychuk, seconded by the Honourable Senator Cochrane, that Bill C-11 be not now read a third time, but that third reading be in six months.

Hon. Gérard-A. Beaudoin: Honourable senators, I merely wish to support the initiative of my colleague Senator Andreychuk, and to move a six month hoist of Bill C-11.

I have attended several of the meetings of the Senate Committee on Social Affairs, Science and Technology, which studied Bill C-11. A number of witnesses and experts raised some interesting and worthwhile questions. This bill is most certainly a controversial one. Among other things, it addresses the various rights and obligations of permanent and temporary residents, detention and release, right of appeal, and judicial review, as well as the protection of refugees.

All of these issues have an impact on the Canadian Charter of Rights and Freedoms, particularly its section 7. Moreover, the Supreme Court of Canada has given a broad and generous interpretation to that section. A careful examination of the impact of Bill C-11 in terms of the Canadian Charter of Rights and Freedoms is therefore warranted.

This bill makes considerable use of regulatory powers. This is a point I wish to emphasize particularly. We all know that there has been a tendency in the past few decades for Parliament to pass what is called framework legislation and to leave considerable leeway for regulations. We are living in an age of "regulatory power." A huge amount of legislative power is left to the Governor in Council, or to ministers, and that power is constantly on the increase. I have always believed that bills had to contain the basic principles and that the Senate and the House of Commons had to jealously guard their legislative power.

• (1420)

It goes without saying that we really need an act on immigration and refugee protection. This is a very important area. However, we must take time to adjust it to current circumstances and needs.

In my opinion, the bill leaves way too much discretion to the Governor in Council and the minister.

Moreover, the regulations will not be ready for several months. We will have to wait. It would have been better to include in the act itself several issues that will be dealt with in the regulations.

A number of experts, including David Matas, raised these issues. Mr. Matas stated that Bill C-11 presents a lot of problems. It deserves and requires an in-depth review. The situation has changed a lot since September 11. We must consider the immigration system from a different perspective. The Senate can do it, said Mr. Matas, provided it has time to do so.

I think we have run out of time. Incidentally, the bill does not define terrorism. This is left to the regulations.

I really wonder whether we can delegate such power to the Governor in Council. I do not think so, and this opinion is shared by a number of constitutional experts. Terrorism must be defined in the act itself.

The bill should be reviewed. I doubt very much that a series of amendments would be enough.

Therefore, honourable senators, I am asking you to support the our colleague's proposal and to hoist this bill six months.

Hon. Senators: Hear, hear!

[English]

Hon. Consiglio Di Nino: Honourable senators, I, too, rise in support of Senator Andreychuk's amendment. I will not add extensively to the valuable contributions made by honourable senators on both sides on the debate of this issue. However, it may be worthwhile to review a few points.

From the inception of Bill C-11, the minister has suggested to us that this bill was necessary in order for her to conduct the necessary business, particularly after September 11, to deal with security and border issues presented by those horrible events. The vast majority of the witnesses who came before the committee — those on the front lines, the immigration officers and those who have been involved in this area for a long period of time — assured us that the minister had all of the authority, all of the power and all the law that she required to be able to do the things that she wanted without Bill C-11.

As a matter of fact, I reminded honourable senators, during my presentation in this chamber at third reading, that the minister herself, in effect, admitted as much when she informed the media that she would go ahead with certain measures even though the legislation had not yet been passed. After a certain amount of questioning, particularly by the Leader of the Opposition in the Senate, as to the adequacy of that statement by the minister, she admitted that, in effect, the measures she was authorizing were measures that she could take under the current legislation. Therefore I believe that particular argument went by the wayside.

As well, during the hearings we heard many witnesses criticize the speed with which the government was asking us to deal with this important issue. The concerns about the adequacy of time was a recurring theme, and nearly universal among those who appeared before the committee, particularly because of the importance of this critical subject and the impact it would have on Canada and Canadians.

Honourable senators were also reminded that this bill was passed by the other place months before the events of September 11. The minister's pronouncements, in effect, probably had no basis. The issues raised by the events of September 11 would include such things as border security, screening of refugees and potential immigrants, detention and deportation of those to whom we did not wish to grant asylum or landed status, and it particularly raised the issue of the definition of terrorism, as well as a number of other related matters.

We then saw the introduction of Bill C-36 in the other place, which was rightly applauded by all in this chamber. That piece of legislation is currently being studied by one of our own special committees. As I understand it, Bill C-36 will address a number of the issues I have just listed, and will also deal with remedies for the problems or the questions those issues will raise.

When Bill C-36 is dealt with by the other place and by our chamber, I believe that a number of changes to the immigration and refugee legislation, particularly the definition of terrorism or terrorist acts, will be required.

Finally, honourable senators, I have noticed a refreshing trend among all of our colleagues in this chamber. The trend seems to be a willingness to assert the Senate's independence and value as a place of thorough and thoughtful analysis of matters and issues of importance to Canadians.

Hon. Senators: Hear, hear!

Senator Di Nino: I am supporting Senator Andreychuk's amendment for a number of reasons, but, in particular, it is important for all honourable senators to look at this as a unique opportunity to defend our independence and relevancy in the parliamentary system. We have to defer the passage of this bill until we have had at least the opportunity to review the recommendations of our colleagues who have been studying Bill C-36, as those recommendations will have consequential effects on the legislation we are dealing with today. I suggest, with the analysis and review of Bill C-36, that amendments to Bill C-11 will likely be required.

• (1430)

My recommendation and my hope is that everyone in this chamber will agree to tell the government that we have not completed our study and analysis of Bill C-11, particularly as it relates to the potential amendments that will reflect the work done by our colleagues in their study of Bill C-36. Therefore, I recommend that all honourable senators join in supporting Senator Andreychuk's amendment.

[Translation]

Hon. Roch Bolduc: Honourable senators, I did not intend to speak to this bill. However, I have been listening carefully to what people have been saying for the past week. I wonder whether there is not some exaggeration of the discretionary powers given to the governor in council and to the minister.

Framework laws are not part of the British parliamentary philosophy. Honourable senators, you know that there was a very strong British influence on the 1958 or 1959 French Constitution. The French accepted part of the British model. We see their influence in Canada in the form of framework laws, which give certain authorities to the Governor in Council or the minister.

It seems to me that the government is getting off track. It is claiming that the situation is urgent, but this bill has been around for a year. It is not before us because of the events of September 11. The bill was already under consideration. So the events in question could not have had an impact on the drafting of the bill. Furthermore, the bill does not define terrorist acts.

This is what worries me. This framework approach is indicative of a sort of unwillingness on the part of officials and of ministers to take the trouble to define things clearly in law. The basic definitions should be in the bill! The basic principles should be in the bill! They cannot be in the regulations. This is a ridiculous way of doing things! We must protest.

A clause is defined one way, and then three months later, another bill is introduced, and it is the same thing all over, it is sheer laziness! Officials and ministers do not want to set clear limits in legislation. Our system does not allow the government to do just anything! It states that the government may do nothing unless authorized by Parliament. That is the system we have! Not the opposite. According to our system, people may do anything, except that which is prohibited by law. That is the foundation of our system. There are not 50 principles. The rule of law is based on two or three general principles. First, people are free to do what they wish, except that which is prohibited by law, and second, the government may not do anything, except that which is permitted by law.

What we are trying to do here is tell the government that there are no specific limits, only broad markers in this bill. The government will do whatever it wants. It makes no sense! It is too much! The officials and ministers are being lazy! It is unacceptable.

I cannot support this bill. At some point, we have to say no. If it is not this bill, then it will be the next one, or another one. It seems to be the trend. If this keeps up, we will end up like they are in Europe, with 80,000 pages of regulations, what an achievement! Apparently, they are proud of this. They seem to be happy. They remind me of those who think that an 88-page constitution is better than a 3-page one.

Some form of protest must be made. I am not referring to the opposition. This is no partisan battle, it is for you on the other side of the house as well. The Senate has to make it clear to Parliament. We are the only group that can say what we think. In the other place, the party machine takes precedence, understandably; it is the British system. I am not going to start a case over it. The party system forces members to take sides. You are on one side or the other.

In the Senate, our allegiance is looser, and this is a good thing. If the Senate always agreed with the government, if the government majority in the Senate agreed, we would basically be indicating that we are irrelevant. We must react and protest vigorously.

Especially since, in the bill, there is the act and enforcement of its provisions. From what we can understand, enforcement of its provisions is a real mess. This does not surprise me particularly, because immigrants come from all over, through the doors, windows and so on. Afterwards, they ask for permission to stay, and permission is denied. And these people have as many rights — people who have just arrived — as those who have been here for 40 years. That makes no sense!

Do you know where that is taking us? We are going to end up with a bunch of immigrants in Canada without knowing where they live. There are 35,000 out there somewhere. We do not know where they are. They have been denied refugee status, but they are still here. This is worrisome. According to the report of the Security Committee, probably 99.5 per cent of them are decent people. They are not the problem.

The minister wants discretionary powers in addition to that. Honestly, the entire house should protest against this ridiculous system. This is a golden opportunity. Basically, this legislation is already a year old. The minister will not be speaking to us about it. In fact, she is occupied with the Americans and will present other amendments next week, in three months or in four months. This is the time to say no to her. Enough foolishness! I therefore support my colleague.

[English]

Hon. Lois M. Wilson: Honourable senators, I wish to speak in support of the amendment to hoist Bill C-11 in the interests of crafting a better bill. Before I was appointed a senator, I worked on the Immigration and Refugee Board and therefore have an intimate knowledge of what goes on there and of what needs to be changed.

I know that we live in a climate of fear and hysteria, but that does not excuse the expediency of the Senate opting out of being a chamber of sober second thought. When I was negotiating with the Prime Minister's Office on whether I would accept an appointment as senator, I was told that the Senate goes beyond partisan lines. I am very disappointed that, in this particular instance, it does not seem to. I know that we work on the party system, but this is a matter of grave concern to the public, and I think that in this instance there should be more cohesion.

I have received more comments on this bill than on any other matter since I was appointed to the Senate. Most of the comments have been from people in agencies working on the ground in the refugee process, all of whom have difficulties with certain parts of the bill.

I sat in on the committee hearings on the bill when I could and, when asked by the chairman, suggested some points for committee observations, only to discover that the observations are merely filed and make no difference to the legislation. Therefore, I look upon that as a make-work project and am sorry I engaged in that charade.

I have numerous concerns with this bill but will mention only one, although it has already been mentioned, and that is that there is no definition of terrorism and therefore no coordination with the definition of terrorist activities in Bill C-36 which, as you know, is still under discussion. That tells me that we need coherence in government policy. That would be very helpful, but it will not be possible if we pass this bill without amendment.

I would hope for more time to further review the bill and give it further sober second thought, which is our function. If the bill is put to a vote without amendment, I will certainly vote against it and speak against it publicly in Canada.

Hon. Edward M. Lawson: Honourable senators, I wish to make only a few brief comments as a practical man looking for simple solutions.

I support the motion to delay the passage of this bill in order that we can have another look at it.

People who get on airplanes in other countries must have documents in order to board, yet, when they arrive here, they do not have their documents. Has no one considered taking their documents when they board the plane and returning them when they arrive at immigration at the end of their flight? In that way, they could not fill the toilets of the aircraft with documents.

Why is it that you can destroy documents and you can burn the flag, but God help you if you cut the tag off a mattress? Any homemaker will tell you that they are nervous when they turn their mattresses because they might tear the label, which threatens life imprisonment or some such penalty for doing so. However, people can destroy or forge documents.

I attended a meeting of the police commission in Vancouver last week. The officer responsible for dealing with counterfeiting passed around some Canadian and American one hundred dollar bills. I happened to have a Canadian hundred dollar bill myself, although that is a rare occasion, being a poor senator on a small fixed income. I put my hundred dollar bill beside the counterfeit bill and, had I not been holding on to mine, I would not have been able to tell them apart. The officer then told us, "Those are the second-tier counterfeit bills. The better ones you cannot tell apart, U.S. or Canadian."

• (1440)

In the face of that, the next thing I read is that we have a new identification card. The minister, along with everyone else, has been told that it is already obsolete. The American card relies upon fingerprints. We do not have that. It is already obsolete because it is easy to forge — even easier than it was to forge and resell before. In the face of that fact, why would we not delay and get one that works and is not obsolete?

I saw in the newspaper where President Bush ordered top U.S. officials on Monday to "promptly initiate negotiations with Canada and Mexico to assure maximum compatibility of immigration, customs and visa policies." When will we do this, this afternoon, before the bill is voted on?

Why would we not take the time and meet with the Americans, as they are requesting, and have a similar card, if necessary, or even an identical card? No one dares say suggest as much because the minister says that will affect Canadian sovereignty. Just put a Canadian flag in the top corner of it. In my view, protecting sovereignty is working with the Americans on as efficient and secure a basis as possible to get those trucks and all the goods and services moving back and forth and creating jobs. That is how we protect sovereignty, not by this silly nonsense that we have to be different. We can still be different, but why not be as good? Why not give as much protection? Instead of having teamsters sitting at the border waiting for eight hours, why not allow them to make two or three more trips, creating more revenue and generating more taxes for the country?

Those are just a few of my concerns, honourable senators, and why I think it is timely to meet with the Americans and work out these negotiations. Let us make it the best it can be, without offending our sovereignty.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I have listened with great interest to many of the comments that have been put forward. I must suggest that I have serious problems with each and every one of them.

Some Hon. Senators: Oh, oh!

Senator Carstairs: I am sure that does not surprise honourable senators opposite, but I am willing to give you my reasons as to why I have problems with each and every one of them.

Senator Di Nino speaks about the issue of the conflict that he sees between Bill C-11 and Bill C-36. Honourable senators, there is no conflict. Bill C-11 is a bill on immigration; it is an administrative measure. Bill C-36 is a Criminal Code amendment for the most part. They are very different forms of law, one being administrative and one respecting the Criminal Code.

Honourable senators, we need to ask ourselves very clearly this afternoon: Have we given this bill sober second thought?

Senator Kinsella: No.

Senator Carstairs: The honourable senator says "no." Quite frankly, you all agreed to have the vote today, other than Senator Prud'homme who stood and said, "On division." The reality is we have had this bill since June 14. This bill did not land on our desks just two weeks ago.

Because I was concerned that we would move too quickly on the bill, I did not ask Senator Cordy to give her second reading speech until we had had time to study the bill over the summer months. If senators did not avail themselves of that opportunity, then that is unfortunate, but the opportunity was there for them to do so.

Senator Cordy gave her second reading speech the very first day we came back from the summer recess in September. The bill remained in this chamber for two weeks. The other side chose not to speak to it for a number of days. Eventually, however, it went to committee. It remained in committee for a month. It then came out of committee last week.

Senators then began third reading debate. Senator Cordy spoke last Wednesday, after which debate was adjourned. Senator Di Nino spoke on Thursday, after which debate was adjourned. Senator Roche spoke on Tuesday, after which debate was adjourned. Honourable senators, if this had been the kind of pressing bill that you are now trying to persuade us that it is, then why were we not engaged in active consideration of this bill since June 14?

Senator Wilson has raised the point that a number of people who work with immigrants and refugees in this country have concerns about this bill. Quite frankly, I take their concerns more seriously than I do members of the bar who represent immigrants and refugees, and I will tell honourable senators why. It is in a

lawyer's best interest to not have a tougher system, because then they have more arguments to use before the courts in order to delay, delay, delay and delay.

Senator Kinsella: What is wrong with that?

Senator Carstairs: Senator Wilson does not speak about those particular individuals. Senator Wilson speaks about the individuals who work with refugees and immigrants on a daily basis. She knows of the refugees who come without documents, not because they ripped them up on the plane, Senator Lawson — and some do, I do not disagree — but because they have never had any documents.

An Hon. Senator: How did they get on the plane?

Senator Carstairs: The reality is that this bill has been in the process of development not for one year, not for two years, not for three years, not for four years, but for five years.

Senator Kinsella: Why so long?

Senator Carstairs: This bill has gone across the country. There have been discussions on it. It has had debate. It has had changes. It has had resolutions.

Honourable senators, what we are being asked to vote on today is a bill that has had not only a thorough study in this chamber, but a thorough study in the other chamber, and thorough debate from coast to coast to coast.

Honourable senators may well argue, and I would certainly be of that view, that the events of September 11 have given us all a sense of heightened concern about our security. However, I remind honourable senators that Bill C-11 was written not in the heat of the moment, but in order for Canada to have the best immigration and refugee protection system possible, with the clear light of reason and without the pressure of addressing questions of Canadian values.

It is Canadian values that I think are of the most importance in this bill. We want to strike a balance with all Canadians in terms of accepting and welcoming immigrants and refugees. Most of us do not have to go back too far to see from where we came. That is our heritage in this country. It is our future in this country. We are, after all, a country of immigrants. Thus, we want to preserve that.

On the other hand, many Canadians, including myself, do not want people in this country who are guilty of criminal acts, who are guilty of terrorist activity, who have misused and abused the system that depends on the gentility and generosity of Canadians to be put in a good light.

• (1450)

None of us like the fact that sometimes these processes take two, three, four or five years before we are able to deport those individuals.

Canadians are looking to us for reassurance. They do not expect us to abandon core values, but they want us to ensure that we have a secure and safe community that continues to welcome immigrants and refugees.

Honourable senators, this legislation is very tough on those who pose a threat to public security and those who do not respect our laws. However, it is also legislation that affirms the importance of immigration and refugee protection to Canada's future. We know that without immigrants in this country, our population will go into a state of decline. That is the reality. I would suggest, if for no other reason than our own self-interest, since many of us are entering that golden age, that we may well want to have individuals come to this country who will ensure that our benefits programs remain in place, be it health care or a form of Canada assistance.

We have to have a balanced program of reforms including tough, targeted enforcement measures as well as concrete steps to welcome skilled workers, families and refugees. Skilled workers are the key to our future prosperity. Families are the cornerstone of Canada's immigration policy and our communities, and refugees are those who are genuinely fleeing prosecution and terror and genuinely in need of our protection.

The events in New York and Washington on September 11 have made us all more concerned, and to alleviate those concerns, Bill C-11 contains comprehensive measures that will further strengthen national security and public safety. We already have a range of security provisions in place under the current law, but Bill C-11 streamlines them and gives us the powers and tools we need to get rid of security threats more quickly. It makes it possible to remove those who pose a security threat from the refugee determination process more quickly than under the present law. This bill contains new and important measures that are both critical and urgently needed.

In my view, and in the view of the government, it is not necessary to amend Bill C-11 to include a definition of terrorism. If greater clarity is needed, it is possible to adopt a definition by regulation in the future that will mirror Bill C-36, if that is what is required. Bill C-36 complements the tools we have in Bill C-11 for dealing with terrorists and security threats. It gives our law enforcement partners better tools for investigating and prosecuting terrorists.

The objectives of Bill C-11, however, are quite different. The job of the immigration and refugee protection system is to detect, deter, detain and deport terrorists and those who pose a security threat. Bill C-36 proposes changes to the Criminal Code so that terrorists can be dealt with under the criminal justice system, where requirements are much different than under the immigration administrative law.

Let me take this opportunity, honourable senators, to address some of the other concerns that have been raised by other speakers about the process of removal of persons who are reputed to be involved with terrorist organizations listed under Bill C-36, the new anti-terrorism act. The list of terrorist organizations in Bill C-36 would assist immigration officers in

making a case to an independent immigration and refugee board adjudicator that a person is inadmissible on security grounds. However, it is important to note that the presence of an organization on such a list would not in itself be sufficient or conclusive evidence of such a finding for the adjudicator to determine inadmissibility. A person found inadmissible by an adjudicator would also have the possibility of seeking a judicial review of that decision by the Federal Court of Canada. Let us be clear on this point. The process provides independent oversight of administrative decisions as well as the possibility of judicial review.

Bill C-11 was amended by the House of Commons to take into account concerns related to the issue of consultations on the regulations. The usual pre-publication process would, of course, occur. However, both the appropriate Senate and House of Commons committees would be notified and provided with the regulations by law to allow them to provide the government with their advice before full gazetting.

Some have also questioned the approach to provincial consultations. I can state that consultation on immigration matters with provinces and territories remains a key component of the new legislation. Immigration is an area of shared jurisdiction, and this responsibility is taken seriously by the government. Consultations on legislative reforms with the provinces and territories and other key stakeholders in communities across the country were launched four years ago. These consultations are ongoing and will be pursued in the development of regulations. In fact, Minister Caplan recently met with her Quebec colleague to discuss and consult on immigration issues, including Bill C-11. These principles of consultation are specifically enshrined in the new act.

Bill C-11 deals harshly with another global problem, the trafficking of human beings for profit and gain. These operations are global in scope and covert in nature. If our laws are to function with integrity and maintain the confidence of Canadians, our laws must have the teeth to enact justice on the perpetrators. Bill C-11 calls for tough penalties for those engaged in human traffic and smuggling, up to life imprisonment and up to \$1 million in fines. It allows the court to order forfeiture of money and other property seized from traffickers and smugglers. It puts penalties for human trafficking in line with those for drug trafficking and allows us to send a strong message to our courts.

The bill creates a new category of inadmissibility for those who commit fraud or misrepresentation on immigration applications. It streamlines the refugee determination process and allows us to exclude serious criminals, security risks, human rights violators and members of organized crime from the process altogether, by suspending or terminating their claims.

Bill C-11 strengthens and clarifies the provisions for detention. It extends the power to arrest and detain refugee claimants when we have serious concerns about their identity and they are uncooperative in providing assistance. The regulations accompanying Bill C-11 will include the factors that have to be considered when deciding to release someone from detention. The result will be a more transparent and safer process.

These new provisions will also ensure that the system is fair and administered evenly across the country. The bill provides for suspension of the refugee determination process if someone is found to be a security risk later in the process. This is not possible under the current act and is an important new provision to help remove security threats from Canada. Under Bill C-11, security risks and threats to the safety and security of Canadians will be barred from the system. There will not be lengthy delays at the beginning of the process, as in the past. This measure not only provides better protection for Canadians, it is also more humane for those fleeing persecution and seeking our protection.

Some have questioned whether the department has sufficient resources to implement these new increased security measures. Let me point out that the Government of Canada has just announced that it will invest \$49 million to strengthen Citizenship and Immigration's ability to move quickly on key enforcement initiatives. These initiatives include fast tracking the permanent resident card for new immigrants by June 2002, front-end security screening of refugee claimants, increased detention capacity, increased deportation activity and hiring up to 100 new staff to enforce upgraded security at ports of entry. These resources are in addition to the \$90 million annually that CIC and other federal departments obtained in Budget 2000 for the implementation of immigration reform. This \$139 million in total, honourable senators, is to strengthen security under the Immigration and Refugee Protection Act.

• (1500)

Bill C-11 will strengthen Canada's refugee determination system, making it fairer, more efficient and effective. Approximately 130 million people are estimated to be on the move. The need for protection of people fleeing war, civil strife or persecution continues to grow. Canada will continue to do its share to ease global pressures. Bill C-11 will help us to do the job better.

Some have questioned the Immigration and Refugee Board appointment process, claiming that the process is inadequate. In fact, the IRB is recognized internationally for its fairness and its integrity. Members are appointed by the Governor in Council on the recommendation of the minister, after a comprehensive selection process administered by a ministerial advisory committee. I can assure you that this selection process is rigorous and includes a detailed screening, a written test, an oral interview and professional reference checks. The candidates must demonstrate that they possess analytical reasoning and problem-solving skills, decision-making abilities and judgment skills, communication and interpersonal skills, as well as professional ethics. Rest assured, honourable senators, that we can be proud of the excellent men and women who serve on the IRB.

Let us look at the provision of Bill C-11 that will enhance Canada's prospects for economic growth and prosperity. To grow and prosper in the future, Canada needs dynamic, well-educated, skilled people. Immigrants and refugees have built our

communities and woven a rich cultural tapestry and a diverse social and economic fabric that is one of our great sources of strength in a competitive global economy. Our social cohesion and tolerance is the envy of the world but our population, as I indicated earlier, is aging and having fewer children.

Currently, over three-quarters of Canada's labour force growth comes from immigration. In just 10 years or so, immigration will account for all of Canada's labour force growth. In just 20 years, all of Canada's population growth will be from immigration. Canada is not alone in this demographic crunch. There is emerging a vigorous global competition to attract the world's best and brightest. Bill C-11 and its accompanying regulations will allow Canada to maintain its competitive edge and secure the people we need to continue to make Canada one of the best places in the world in which to live.

Bill C-11 will introduce a new points grid to shift the current focus of skilled worker selection from experience in a particular occupation to more of a focus on flexible and transferable skills. The new regulations will allow for skilled tradespersons as well because Canada needs these new people.

Bill C-11 reaffirms yet another cornerstone of Canada's immigration tradition: the reunification of families. The bill provides specific measures to speed up family reunification. It creates an in-Canada landing class and simplifies applications for spouses, partners and children already in Canada legally, who will no longer have to leave the country to apply.

There have been suggestions in committee hearings of the House of Commons and the Senate that clause 64 of the bill dealing with permanent residence, is too harsh. In cases involving serious criminals, human rights abusers, organized crime members and threats to Canadian security, it is the minister's responsibility to ensure that issues of safety and security are paramount. These are the people who are not entitled to an appeal, and these are the people who will be dealt with harshly under Bill C-11. Of that there is no doubt. However, the decision to remove a long-term permanent resident under these circumstances is not taken lightly.

The government's amendment in the House of Commons was to ensure that these removal orders are issued only by an independent adjudicator of the IRB and at an admissibility hearing. This amendment was adopted and is now in clause 44 of Bill C-11. Before referral to the IRB, CIC officials will consider personal circumstances such as family ties, attachment to the culture and language of the home country, immigration status, and length of time in Canada. The nature of the crime will also be considered.

In addition, honourable senators, procedural changes are being made to ensure that long-term residents who came to Canada at a young age are given more consideration than they are in the current act. Comprehensive guidelines will be put in place to ensure that every person is treated fairly and equitably.

The current Immigration Act is too complex, difficult to understand and not flexible enough to respond quickly. We need a modern act with modern regulations to respond to a new global reality that allows Canada to maximize the benefits of immigration and maintain our humanitarian traditions, while managing access to the country, and while protecting safety and security.

Bill C-11, honourable senators, will provide us with this coherent, modern legislation. It deals with much of the same subject matter as the current act but in a much more accessible way. It regroups provisions into four main parts — immigration, refugee protection, enforcement and the Immigration and Refugee Board — making the new legislation clearer, simpler and easier to use.

Honourable senators, I hope that you will not accept the motion from the Honourable Senator Andreychuk to hoist this bill for six months but will pass it today in the firm belief that it will give to the Government of Canada, and therefore to the people of Canada, modern, new tools that will maintain not only our values and our sense of tradition, but also ensure that the best stay and those whom we do not want are gotten rid of quickly.

Hon. Consiglio Di Nino: Would the Honourable Senator Carstairs take some questions?

Senator Carstairs: Of course.

Senator Di Nino: First, for the record, let me correct some of the comments made by the minister. I never used the word “conflict” when I was suggesting that Bill C-36 may have an impact on Bill C-11. That was the honourable senator’s word, and if she will check the record, I believe she will find that to be the case.

The minister also said that the response from this side to the Honourable Senator Cordy’s speech on second reading was two weeks. Let me again put the record straight. The bill was introduced on June 14, the last sitting before the summer recess. It would have been very difficult to respond at that time. The minister left the impression that we sat on our hands throughout the summer doing nothing. That is absolutely incorrect. I, for one — and I am sure some of my other colleagues — and those limited staff members that we have as senators, worked throughout the summer trying to analyze and make some sense out of this bill.

The response from this side took three days — not two weeks — from the time that Senator Cordy made her speech. She spoke on Tuesday, September 18. I replied on the following Tuesday, September 25, which is three sitting days after her speech.

Further, for the record, I should like to inform honourable senators that on Wednesday, September 26, Senator Robichaud introduced a time-allotted motion that gave us until September 27 to complete the debate on second reading of the bill.

I make these remarks so that we may have the correct information on the record.

I now wish to ask the minister some questions.

Near the end of her remarks, I believe I heard the honourable senator say that long-term residents, and particularly young people, would be dealt with differently. I believe she mentioned some regulation.

• (1510)

The legislation as it now stands means that if someone comes to Canada as a child — three months old, a year and a half — and later on in their life commits a serious crime, the right to appeal deportation is denied them because they are not Canadian citizens, even though they have been residents all their lives and are a product of this country. Before I ask the question, perhaps the senator could clarify that.

Senator Carstairs: Honourable senators, we can have an argument about the timing, but we certainly do not have any argument about when this bill came to the Senate. It came to the Senate on June 14. We have no argument about when Senator Cordy spoke. Quite frankly, we have had the bill for almost three months, and I would have expected the opposition to have responded either that day or the next day. In reviewing the tradition in this chamber when we were in opposition, that was in fact the case. Having said that, it took until September 27 before this bill went to committee. It then took a period until October 23 to get a committee report, and it is now October 31.

There has been no speedy progress for this bill. There has been, I suggest, considered progress of this bill. I have heard statements made outside this chamber that this was a “hurry-up” job. Quite frankly, the leadership on the other side came to me saying that they wanted extra days of hearings, and we provided those extra days. We have been very cooperative with the other side in terms of this legislation.

As to the specific comment that the honourable senator raises, I must say that this has been a serious concern of mine for a very long time. We may have a child who is born, or almost born, in this country or who arrived in this country at two or three months of age. At the age of 22, let us say he commits a criminal act. We choose to then deport him to his country of origin, his country of birth. It seems to me, then, that we in this country have produced a young person who is perhaps not in sync with all the laws and the social values of this country, but it is we who have done that. We cannot blame that on another country.

My understanding is that this bill makes that interpretation of his time in the country very admissible before the refugee hearing, and quite frankly it has not been up to this point. It is that admissibility which I think is significant. The immigration board making the determination with respect to that young individual should know the length of time that the individual has been in this country and that he is a product of our social fabric and not that of a foreign country.

Senator Di Nino: Does my honourable friend agree, though, that if that person is ordered deported, notwithstanding that he may have been here when he was two years old or three months old, that he should have no right of appeal? As I said, I thought the leader made a comment in her speech that dealt with some regulation that may change that situation. That is the question I had. Does the leader agree that if it is felt that the individual will not be allowed to remain and is deported, notwithstanding that he is a product of this country, that he should not have a right of appeal? Does the leader think that is correct?

Senator Carstairs: I said in my comments — and I repeat it because I know I said many things — that in addition, procedural changes are being made to ensure that long-term residents who came to Canada at a young age are given more consideration than they are in the current act. Comprehensive guidelines will be put in place to ensure that every person is treated fairly and equitably.

Senator Di Nino: Thank you for that because it actually gives me a little bit of comfort, although I am not sure I like to see that.

Madam Minister, this is one of the problems with government by bureaucracy. We have seen this kind of legislative initiative, as Senator Bolduc said a moment ago, and it is becoming ridiculous. Parliament will become irrelevant and we will let the bureaucrats decide. Why must we accept from governments, whatever stripe they may be, the exclusion of Parliament from very important decisions such as the one honourable leader has just mentioned?

Senator Carstairs: Honourable senators, the regulations will be submitted to both the Senate and the House of Commons for our approval. I happen to think that these are significant changes. Frequently, and Senator Bolduc knows this well, regulations come into force after the fact and, as parliamentarians, we never see them. The fact is that we will see these regulations as part of the act. By law, we must see these regulations and we must evaluate these regulations. That is a significant and positive change.

Senator Di Nino: Before I forget, did I hear the minister say that the regulations will come before us for our approval? That was not my understanding. Could she verify that, please?

Senator Carstairs: I did not, Senator Di Nino, say that they would be coming to you for your approval. If I did, I certainly did not mean to. They are coming “before you.” They will be referred to an appropriate committee. The honourable senator can raise his concerns with the Honourable Minister for Citizenship and Immigration.

Honourable senators, it can be argued, and certainly has been argued with some effectiveness, particularly by Senator Bolduc, that we are becoming more and more a regulation-oriented society. It is true. Our legislation is becoming more and more complex. There is no question about that. It used to be that first reading meant that the clerk would stand up and read the bill in its entirety because the bill was only one page or a

page-and-a-half long. We now have bills like the Bank Act of last year that was some 900 pages long. There is no question that the world has become more complex and regulations have become more complex.

What is our answer to that? I think it is twofold. It is to insist on more of these regulations being presented to Parliament for our input on what we think is the effectiveness of the regulations or their negative impact. I also think that we should consider seriously beefing up our Scrutiny of Regulations Committee. By that, I mean that we should give them the staff and the authority to look at regulations in a very serious way. Those regulations, as many senators know very well, are becoming as important as the law itself, in some cases perhaps even more important.

Senator Di Nino: Let me ask another question. I have a number of them, but I will defer to my colleagues, having regard to time.

Minister, you indicated that we are getting tougher on those who traffic in humans, and I totally agree. I think we should do things to them that I cannot talk about in the Senate.

The legislation raises the financial penalty to \$1 million. The current penalty is \$500,000. We asked the officials how often the \$500,000 penalty has been imposed since it became law. The answer? Never.

• (1520)

Honourable senators, our concern is that this government has a tendency to rely on rhetoric, as stated by the representative of the Chief of Police. When it comes to action, it is just not enough to have a maximum penalty and never use it. My question to the minister is: Why raise the penalty to \$1 million? Why not raise it to \$10 million or \$140 million if we will never use it, just as we have never applied the half-million-dollar penalty that is there now?

Senator Carstairs: Honourable senators, with the greatest of respect, it is not the government that imposes the penalty. Many in this room would agree that if the range of fines is from zero to \$10, rarely do they use the \$10. If the range of fines is from zero to half a million, rarely will they use the half million. If the range, however, is from zero to \$1 million, then maybe they will start assessing fines at the half million dollar range or the three-quarters of a million dollar range. The maximum will not be reached but the range will become greater.

What is more important, Senator Di Nino, is that the penalty can be life imprisonment.

[Translation]

Hon. Roch Bolduc: Madam Minister, you told us that the bill had been five years in the making and that a lot of work had been done, including meetings with experts. So this was a very long process that lasted five years and the Senate received the bill on June 24.

Why is it that the regulations were not with the bill? If the process lasted five years, it seems to me that, at least during the last year, they could have drafted regulations, as we do with financial statements.

The 30,000 public servants working for this department had the whole summer, from June 24 to the end of October, that is four additional months, to draft those regulations. I simply cannot believe that they were unable to do so.

[English]

Senator Carstairs: Senator Bolduc, in this business you are sometimes damned if you do and damned if you don't. If the government had come forward with all of its regulations before this Senate had received the bill, or before the Senate had passed the bill, the hue and cry from some senators — not you, Senator Bolduc — on the other side would have brought the roof down.

The government did distribute a document on the regulation development process that I believe was entitled Policy Framework. That was distributed at the committee hearings, as it had been distributed to the House of Commons committee. I would be naive to tell that you that the regulations are in fact in an ongoing draft state at the present time, but in this parliamentary tradition the bills come first and the regulations come second.

Hon. A. Raynell Andreychuk: Honourable senators, I would certainly like to pursue that point because the tradition was always to have the draft regulations so that one could have some assurance of the direction they are going. In fact, during the review of the DNA bill recently in the Standing Senate Committee on Legal and Constitutional Affairs, the draft regulations were there and they were very helpful. Therefore, I do not know why the government has gone off that process. If there have been complaints perhaps there were not enough to take into account, and that is being used as an excuse not to file them.

The problem with the regulations for Bill C-11 is not simply that they are not there, but that the most fundamental principles will be put into regulation, fundamental principals that are not usually found in regulations. Does the leader not find it rather unusual that the right to appeal will not be a right of law, but a right of the regulations at the discretion of the minister? People who are permanent residents are loyal to this country and have valid reasons to continue to be permanent residents. They are people who, for example, came from Uganda. They were driven out of that country and came here but wanted to continue to work in that country, and in many cases they must have a passport of that country to work there. They are committed to this country and are permanent residents of this country. Why do they not have a right of appeal, a right that is so well known in our society, one given by law, protected by law and not at the discretion of the minister?

Can the leader state why the regulations have gone so far that the minister becomes in effect the rule of law?

Senator Bolduc: The rule of men.

Senator Carstairs: Thank you, Senator Andreychuk, for that question.

The right of appeal has in fact been removed. The honourable senator is quite right and knows the law. It is not there for some situations. However, I will give a classic example. Is the honourable senator suggesting to me that someone who has been convicted of having participated in the genocide of 6 million people, or some of those 6 million people, should continue to have right of appeal after right of appeal? I am sorry, I say no. When it has been proven that that person is in fact guilty of the most heinous crime, it is time to say, "Goodbye, you are not welcome in this country."

Senator Andreychuk: Honourable senators, that would be good if in fact that were the case. However, we passed Bill C-19 to have the authority to refer such cases to the International Criminal Court for prosecution, cases of war criminals, et cetera.

Unfortunately, no one would argue with what the leader is saying, but we are not trapping the war criminals. This legislation traps people who could be convicted of a driving offence or impaired driving once in their life. They should be punished. There is no question about that. They should be charged and convicted, but should they be removed from the country because someone might have said that that was a serious criminal activity sufficient to deny them due process and the right to appeal? We are not saying they should not be deported, but they should have due process and the right to an appeal.

Senator Carstairs: The honourable senator and I will have to disagree because I think they have due process. They have a number of avenues of which they can take advantage through the immigration appeal process, and also through the ministerial appeal process. I do not believe they need to have appeal before a court of law and I think Senator Andreychuk's example, quite frankly, is wildly over-exaggerated. It is very clear that if someone committed a traffic offence no immigration review panel will say the person should be deported. We do not have that kind of legal or semi-judicial process in this country.

However, to those people who lie when they enter this country and then 20 years later, when they are caught out, say, "I should not have done that," I say, "Sorry, a lie is a lie."

Senator Andreychuk: Honourable senators, I will not take this point further because people certainly do lie to get into this country when they do not have papers and when they are afraid, and that is fundamental in our refugee program. The point is whether the lie is fundamental or whether it is a small lie to cover an identity so that the traces of terrorism from which they escaped cannot follow them. There are many reasons and we have gone through them.

I have another question. The Leader of the Government in the Senate stated that money has been released, for which I think Canadian citizens are extremely grateful, to provide for the pre-screening process in the existing act, as well as the process in Bill C-11. We have released phenomenal resources to do what we should have been doing through the Immigration Act because of terrorism. It should have been done earlier. However, it is being done now and that is appropriate.

• (1530)

What measure is there in Bill C-11 that is not in the present act that will protect Canadians from the type of terrorism that occurred on September 11?

Senator Carstairs: Honourable senators, let me make it clear that some money has been released since September 11, but the vast majority of money going to the Department of Citizenship and Immigration for the processing and settling of immigrants and refugees was released in the 2000 Budget. The money has been there for some time and is not just as a result of the activities of September 11, although the amount has been increased since then.

Although I cannot give the honourable senator a written guarantee, tighter immigration policies, better procedures at the border and better screening procedures have been put in place to tighten the process. Although those things were done before September 11, it is to be hoped that they will make procedures in this country more effective.

Senator Andreychuk: Honourable senators, to repeat, what measure is contained in Bill C-11, that is not in the present act, that will protect Canadians against the type of terrorism that occurred on September 11?

Senator Carstairs: The bill provides the ability to deal with the process more quickly, as well as providing for additional screening.

Senator Andreychuk: Honourable senators, can the Leader of the Government in the Senate point to a specific clause of the bill? The witnesses who appeared before us said that the refugee process will be infinitely longer rather than shorter.

Senator Carstairs: That is certainly not the intention of the government and it is not the government's interpretation of the bill.

Hon. Douglas Roche: Honourable senators, when the committee reported the bill back to the Senate, it was accompanied by an annex entitled "Observations," which contains 13 pages of observations. I spoke at length yesterday on those observations and will not repeat now what I said then.

Those observations went a long way toward addressing the concerns that many have raised about Bill C-11. What kind of assurance can the Leader of the Government in the Senate give us that the observations will be taken seriously by the government?

I was impressed that the observations reflected the unanimous view of the committee. Does the fact that they reflect unanimity on all sides of the committee cut some ice with the government?

Senator Carstairs: Honourable senators, it has been my experience in the seven years that I have been in this chamber that bills have an amazing way of coming back to the chamber. The Young Offenders Act, for example, is back in another incarnation known as the Youth Criminal Justice Act. It seems to me that we dealt with that not too long ago in the Standing Senate Committee on Legal and Constitutional Affairs.

Bill C-11 is not the last bill that we will ever see on immigration. It is the duty and responsibility of members of this upper chamber of sober second thought to be vigilant and to ask questions. When officials of the Department of Citizenship and Immigration appear before the committee on the regulations attached to this bill, it is up to us to ask what is being done about all these issues. If we do not do that follow-up, we will be as guilty as the government should it not do that follow-up.

I can tell the honourable senator that the department already has the annex to our report. I am sure that, if they are the intelligent people I think they are, they will have already read it and taken the concerns of Senators into account.

I wish to clarify something that the Honourable Senator Roche put on the record yesterday. He said:

The claim that Bill C-11 is needed to stop terrorists from entering Canada is bogus. The current Immigration and Refugee Act already provides authorities with the power to arrest, detain and remove persons who constitute a security risk to Canada. Surprisingly, this power has never been used.

In the year 2000-01, over 80,000 persons were detained pursuant to the Immigration and Refugee Act. Some of those were detained for security reasons, as they posed a danger to the public. Others were detained due to health risks and various other reasons. Let me assure honourable senators that this section of the act has been used quite a number of times.

Senator Roche: I thank the honourable leader for that correction. I was quoting witnesses, but I am glad to have the point clarified.

The minister said that this will not be the final bill, that there will be more legislation in the future, and that we should ask questions to ensure that the observations of the committee are being considered. I agree with that, but senators do not have the opportunity to ask too many questions. I believe that it is incumbent on the government to ensure that the observations are implemented.

The observations recommend that the Senate do an in-depth study of all aspects of Canada's immigration and refugee system and that such a study should define the fundamental issues in order for Canada to remain a just and welcoming society.

How can the proposal for such a study be furthered so that the concerns of senators reflected in the observations can be dealt with in order to produce an immigration and refugee system of which we can all be proud in the future?

Senator Carstairs: I wish to make it perfectly clear that I know of no immigration bill that is coming to us in the near future. I merely said that my experience in legislative assemblies indicates that these bills seem to come around time and again.

In terms of the study recommended in the observations, I am often asked whether we will study this, that or something else. That is for the Senate to determine, not for me. I do not even determine the budgets that committees get to do their studies. That is done by the Internal Economy Committee. I do not have that authority.

If senators wish to study particular issues, they make a proposal to the pertinent committee. In this case, that is the Standing Senate Committee on Social Affairs, Science and Technology because that is the committee that presented this report. Alternatively, they can do what Senator Nolin did with regard to his special study on illegal drugs. He asked the leadership if there would be interest in his proposed study. I asked my caucus whether they were interested in the subject. Senator Nolin then had to present his proposal to the chamber, which voted on it. I do not have authority over committee studies.

Having watched this process in the chamber, I must say that I should like the Senate to have an in-depth debate about our priorities for a given year. Chairs of committees appear before the Internal Economy Committee and then present their proposals to the chamber, where they are voted on. However, we never look at the broad picture of what all committees are studying. The result of not doing that is that our work is sometimes very diffused.

• (1540)

It may be better if we concentrate on two or three areas a year and conduct intensive studies rather than small studies in a variety of areas. That is my view of how we should proceed. However, clearly, it is up to the Senate to decide what the Senate will do.

We are well known for our special studies in particular. I am reminded of the special studies done by Senator Sparrow, which, quite frankly, warranted international acceptance. I think of a study chaired by Senator Neiman on euthanasia and assisted suicide, which is now used for discussions in medical schools throughout the world for class discussion of those issues.

We cannot conduct 20 of those studies per year. My suggestion would be that we step back and that this chamber should decide what our priorities ought to be.

Some Hon. Senators: Yes.

Some Hon. Senators: No.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, when I was appointed to the Senate after 30 years of service in the House of Commons, I knew full well what I was getting into. This invitation to sit in the Senate is undoubtedly a great honour, even though my stay in the House of Commons could have been extended, since my successors are currently sitting with the majority.

Thanks to my father and mother, I realized from the very beginning of my political life the importance of immigration. Those with a curious mind may want to look at the newspapers of the time when I celebrated my 25th year as a member of Parliament and read about all the fine things I did with regard to multiculturalism.

A well-known journalist at the time, Mr. LeBlanc, concluded that there are no miracles after all and that "what Mr. Prud'homme is doing is a reflection of what Montreal will be later." And 38 years later, Montreal is precisely that. It has become one of the most multicultural and multi-faith cities, making it a most attractive urban centre for immigrants.

I have always attached a lot of importance to immigration, not for political expediency since my first elections were won in a riding that truly reflected Montreal. Over time, everything changed with this new interest for Montreal as an international and multicultural city.

When I was parliamentary secretary to the Minister of Immigration, the media unkindly described me as the French-language mouthpiece of the unilingual English ministers I served. At that time, I used to get one minute's notice of a press conference, but I must say that I acquitted myself very well in them.

I had always observed with interest the business of the Senate. With 30 years in Parliament under my belt, I never thought I would one day be part of it. My dream was to become a minister, specifically Minister of Foreign Affairs.

Everyone knows how keenly interested I am in foreign affairs. I was therefore appointed to head the Foreign Affairs and National Defence Committee, thanks to Pierre Elliott Trudeau, who always made sure I had no competition for that position.

On arrival in the Senate, I used to explain its role to students and teachers by saying that if some people in Canada, be they journalists or academics, had something against the Senate, that was not my problem.

I respect Canada's institutions. There are two chambers and each has a role to play. I have always said that, starting long before I was in the Senate, back when I was in the House. I said: "If you are not satisfied with the Senate, then do away with it, or change it, but do not attack it."

Honourable senators will see that, throughout my career, I have spoken out on behalf of respecting the Senate. What is its role, then?

[English]

My message is mainly to the new senators. What are we doing here? Why did we come here? What is the Senate? Who was our beloved friend, Senator Molgat? What was he asking of us when he requested that we cooperate with him in talking with the professors across Canada about our role in the Senate?

[Translation]

What do we say to university students when we go to speak about the Senate. What is the justification for its existence? We say that the Senate is a place for sober thought, and I believe that. I believe that we are here to examine legislation calmly. As tragic as the events of September 11 were, the Senate is there to see that the legislation that is enacted is what Canadians really want.

As Senator Carstairs said, debate on the Immigration Act is nothing new. Since I was elected to the House of Commons on February 10, 1964, there has been talk of modernizing and broadening the legislation. We have been talking about it for a long time because it goes to the very heart of what brings us together here, which is Canada.

Today, on October 31, Halloween, we are being served up a motley collection of bills which Canadians are going to mix up. I respect the silence imposed on us with respect to the committee's report on Bill C-36, which will be sent to the House of Commons. I attended all the meetings.

Since the events of September 11, we know that Canadians have been temporarily terrorized. In my view, we should start by ceasing to speak about it. In such circumstances, the role of the Prime Minister is to reassure Canadians.

There are members who should go to their ridings and visit the elderly to reassure them. In my riding, there are 28 seniors' residences. The seniors living in them are afraid because they hear politicians saying, on the one hand, that they should go about their normal business and, on the other, that terrorism is on our doorstep.

I comfort them by saying that if I came on foot to see them, the situation is not as bad as all that. The role of a politician is to assume his responsibilities towards Canadians, who are starting to wonder when they sense the nervousness of the politicians in power.

What Canadians want is good bills, not legislation managed by public servants.

• (1550)

They want laws that will let them blame the Prime Minister or the minister. They want to be able to say: You are responsible;

you cannot hide behind officials who have already drafted the regulations.

One can learn a lot in travelling. I was in Libya recently. Unbelievable! This is a country that the Government of Canada is now helping.

It is remarkable! You come from Alberta, Your Honour. You would not believe the money that Calgarians can earn in Libya right now. They are still very interested in oil and gas issues. Senator Taylor should look into this and go and see the tremendous developments taking place there. The Canadian government encouraged me.

Honourable senators, I would hope that Canadian voters would punish me if I supported bad legislation. However, I do not wish to be punished by those who enact regulations that have already been drafted and that have hampered us in the past.

One day, a terrible fight erupted between the Minister of Justice and the Minister of Citizenship and Immigration regarding an international conference on organized crime. This was a long time ago. Old-time Liberals may remember it. Senator Gauthier will recall. It divided the national Liberal caucus. A UN conference on organized crime that was supposed to take place in Toronto divided the Liberal caucus for months, because a senior official from the Department of Citizenship and Immigration made a decision. Officials from the Department of External Affairs had a different opinion. The regulations for the Department of Citizenship and Immigration took precedence. The UN conference was to take place at the request of the Government of Ontario. It was not cancelled — my colleagues and myself would never have accepted that — nor did it take place — others would not have accepted that, including one who now sits in the Senate. Mr. MacEachen, in his great wisdom, asked that the conference that the Government of Ontario wanted to hold in Toronto be suspended.

The role of officials; they write and they are ready. I ask you to consider, honourable senators, what the minister has just said: "No, no, do not underestimate me, but make no mistake about what I have just told you; you will see the regulations, but you will not be there to change them; you will be able to look at them, admire them, comment on them, but you will not be able to change them."

This may be simplistic, but if this is the case, why would we not, in the course of our study of the bill, as men and women who are mature, and who have the tranquillity and ability to be calm, suspend passage of this bill until we can see the regulations? They may change my vote, or that of Senator Bolduc, or Senator Spivak, or Senator Finestone, or others. Why not? We do not know what the regulations will stipulate.

When I travelled recently, I met some young public servants on the plane. I will not name names, for it would mean the end of their careers. They told me that it was obvious that the regulations were already drafted.

When I was at the Vatican, another one reported that I had noted that the Catholic religion could flourish in Tripoli. I wanted to see whether that was true. I reported this to the Vatican and to our ambassador to the Vatican. Public servants have shown a certain trust in me and I will not betray it. They told me that it was obvious that the regulations were already drafted. Another one told me he found it extraordinary that members of Parliament get all upset when a boatload of Chinese turns up on the West Coast. Parliament nearly had to be recalled in a special session as a result of one such incident. He told me that we should see what goes on regularly at Lacolle, a village on the Canada-U.S. border. There is at least one boat a week there.

Honourable senators, the Speaker is a well-read man. He is an intelligent man, as was his father, whom I always respected. I am thinking of the other senators. As you know, I have several items on the Order Paper. I did not think that the events of September 11 would be happening when I said that I would be debating Senator Finestone's question on the horrific treatment of women in Afghanistan. I did not wait for September 11 before speaking. I have not done so since because I was expecting explanations of this tragedy, from women among others.

Another of my speeches will address the CSIS report. When I put that on the Order Paper in May or June, I did not know what September 11 had in store for us. Despite all my so-called connections in the world, I still could not predict that, and that is dangerous. If someone had simply read that report, do you think all these bills would be needed? If the present legislation and regulations were enforced, if the government provided Citizenship and Immigration with the necessary funds to enable it to do its job properly, if the government dealt with the matter of the 20,000 to 25,000 people who never reported back, would we be needing a bill? Would we be needing a new bill to inform us that some people have forged Canadian passports?

Honourable senators will recall my consternation when there was nearly a war between Jordan and Israel and Mossad agents had been found to have Canadian passports. I spoke of that. There are some matters here we are not allowed to address.

Some may claim that Marcel Prud'homme accepts the idea that people may have forged papers. Do I need a bill to inform me that forged passports may be acceptable?

[English]

The Hon. the Speaker: I regret to inform the honourable senator that his speaking time has expired. Is leave granted for the honourable senator to continue?

Hon. Senators: Agreed.

[Translation]

Senator Prud'homme: Honourable senators, Senator Carstairs is entirely correct. The bill was introduced in June.

[English]

I am obliged to bear witness to what I see.

[Translation]

Bill C-7 occupies Senator Beaudoin, Senator Nolin and just about everyone with expertise in this area. Bill C-11, in my opinion, should have been sent to the Standing Committee on Legal and Constitutional Affairs. The senators most interested in these issues should deal with them.

I would not disturb Senator Kolber in the banking system. I will go there soon, and give him advance warning. I know nothing about the system. Some senators are prepared to sit on certain committees. This is the way the three main bills are divided. For example, wait until you see the horror of bill C-36. They want to frighten people. Be on your guard! It will not last long.

In 1970, after bringing in the War Measures Act, the government nearly lost the election in 1972. We were in a minority position, I have to say; we had a one-vote majority. In the polls, we stood at 88 per cent of the popular vote. Let us not get carried away by the heady fumes of popularity.

• (1600)

My father always warned me to be on my guard when people applauded. He told me to close my eyes and to see the same people the next day ready to lynch me. My approach to politics was therefore one of prudence. Applause is as dangerous as alcohol. It can go to your head.

The bill before us is an important bill, but the Minister of Citizenship and Immigration did not appear before the committee studying Bill C-36 on terrorism. She introduced a bill, which we received before September 11. It does not even define a terrorist. So who will decide?

I should not get excited, because of my heart, so keep an eye on me because I have always dreamed of dying on my feet, just like that, in the middle of a speech. I do not ask that you speak either good or evil of me. Just observe a minute's silence, should it happen. It is in my will, in fact.

The Minister of Citizenship and Immigration, Ms Caplan, who will administer this bill, did not even come to explain the contents of the bill and its repercussions. Senators invited her! She is an incredible snob! The Minister of Justice, Ms McLellan, when she appeared before the committee, took the liberty of explaining the thinking of the Minister of Immigration. I have seen a lot in my life, but not like that.

I like public servants, I need them and, ultimately, they are not the ones who are responsible. Rather, it is parliamentarians and the government. It is too easy to pass the buck and say: "My officials." The Minister of Justice herself, when she did not want to reply, would turn and say: "Well, I am advised." But the public servant who is advising her will not take any responsibility.

I made the mistake of saying: "What about if we advise you wrongly?" Honourable senators, the minister almost provoked me. When she was talking to Senator Andreychuk, she said to her: "Are you in agreement with the most heinous crimes?" I am not going to discuss this now, but I will tomorrow.

Tomorrow, I will have things to tell you that are not very pleasant. Just look at what is going on with the visit by the Minister of Foreign Affairs, Mr. Manley, visit and the damage it could cause to us because of certain decisions. Who made these decisions? Not little 80-year-old men who committed heinous crimes or who are accused of having committed such crimes or people who fit exactly the definition of war criminals and are currently living in Montreal, Toronto and Ottawa.

These people are on the RCMP's list, but they nevertheless were given Canadian citizenship. What are these people doing in Canada? Who is cleaning up? Public servants? The minister? Nobody? Tomorrow I will ask the question. This is fair notice to the minister, since I will ask her about this visit by Mr. Manley, who is very embarrassed to have to answer certain questions in Lebanon.

Honourable senators, if for once we wanted to show that the Senate truly has a role to play — and I am not necessarily opposed to the bill, even though I think it should be improved — what would be wrong with hoisting it until we get these regulations?

[English]

Why do we not see the regulations at the same time? The Senate may come to a unanimous decision in less than 10 minutes, if we were to see what we must live with for years to come. That will be decided in "catimini," as we say in French.

[Translation]

In secret, by public servants who are not accountable to anyone and who have no authority before Canadians. Why not combine the two? What wisdom could come out of the Senate?

[English]

What a great gesture the Senate could make by saying to the other side, "Wait a minute. We know it is popular. All you need to do at the moment is say, 'Don't worry, we will tame these terrorists.'" It is now winter in Afghanistan, honourable senators. Let us not scare the people by saying that the government is taking action and, at the same time, snuggling up to the dreams of bureaucrats, because they will ultimately decide how, from now on, immigration will function.

"Prud'homme," I tell myself, "be positive." I try to be positive. I have strong views on this issue. I want to believe that the Senate could accept this. Perhaps we could have unanimous consent to suspend the debate for three months. I know we have the rules to do that. This is not a rejection of the government. Perhaps we should make it four months so that Christmas, New Year and Hanukkah will intervene. That would be a clear signal that the Senate has a role to play.

That is why, regrettably, I will vote for the amendment proposed by Senator Andreychuk. I hope I will have the support of at least one senator. I only need one. I lost my dear friend, Senator Simard, who was always ready to vote on third reading of a bill. I want my vote to be registered because, in a few months from now, I will be happy to look back and say, "Well, it was not popular, but that is what I did, and that is what a lot of senators did."

Senator Robichaud: Question.

The Hon. the Speaker: Honourable senators, I see no other senator rising to speak. Thus, I rise to remind those in the chamber that this bill is subject to an order of the Senate adopted on October 4, 2001 that, no later than 5:00 p.m., any proceeding before the Senate shall be interrupted and all questions necessary to dispose of third reading of the bill shall be put. The date on which this is to occur is today.

If, on putting the question, a standing vote is requested, then the bells to call in the senators shall be sounded for 30 minutes. Thus, if a vote is to take place, it will be taken at 5:30 p.m.

I hope that is clear, honourable senators.

We will now proceed with the Order Paper.

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I should now like to proceed to the consideration of the report presented earlier today by the Standing Senate Committee on Legal and Constitutional Affairs.

MISCELLANEOUS STATUTE LAW AMENDMENT PROPOSALS

REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE ADOPTED

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on Legal and Constitutional Affairs, (*Proposals for a Miscellaneous Statute Law Amendment Act, 2001*)

Hon. Lorna Milne moved the adoption of the report.

She said: Honourable senators will be glad to know that I do not have a speech prepared on this report. We finished our deliberations on it after nine o'clock last night, and I had other things to attend to this morning. I think the report itself is quite clear about what precisely has gone on.

• (1610)

The Miscellaneous Statute Law Amendment Program was introduced in 1975. This will be the tenth time that the Standing Senate Committee on Legal and Constitutional Affairs has considered the miscellaneous statutes.

This document was referred to the committee on June 5.

The miscellaneous statute law amendment proposals deal with minor and non-controversial amendments to federal statutes that can be dealt with by way of an omnibus bill.

The conditions that must be met are that the amendments not be controversial, that they not involve the spending of public funds, that they not prejudicially affect the rights of persons, that they not create a new offence, and they not subject a new class of persons to an existing offence.

The committee met on this for quite some time. Expert witnesses appeared before us.

These proposals are tabled both in the Senate and in the House of Commons at the same time. Our corresponding committee in the other place studied them. If there is any question whatsoever by any person, senator or department that anything in this miscellaneous statute proposal is the least bit controversial, that part of the proposal is immediately withdrawn.

After both committees have studied the proposals, a miscellaneous statute law amendment bill is prepared, omitting any clause that was objected to by anyone in either place. It is generally expected that the bill, when it does come to us, will receive speedy passage through Parliament because all the matters that may be in dispute have been removed before it gets here.

The proposals this year contain 115 clauses, parts of 40 different acts. The various departments withdrew four clauses before we even began our consideration of the proposals. Our committee, after hearing the evidence, objected to seven further proposals, which will be removed. A detailed description of what those seven were is found beginning on page 6 of the report under Appendix A.

We were concerned about the relatively large number of proposals that came before us this time that were potentially controversial. For example, there were several proposals suggesting the removal of an approval requirement either by the Governor in Council or by Treasury Board for matters involving public monies. We removed every single one of those. We do not believe that those proposals should be there.

Another proposal would have repealed the reference to all parliamentary review of an act. The witnesses who appeared before us could not substantiate that the review had actually taken place. In a number of instances, specific information was not presented to us in advance so that we could study it. It only came to our attention during the hearings.

An example of the difficulties experienced can be found in the proposals to amend the Nuclear Safety and Control Act, proposals we ultimately approved because the witnesses who appeared before us explained them very well. They made it quite

clear that these proposals were non-controversial and so we approved their inclusion in the omnibus bill.

I must commend the Canadian Nuclear Safety Commission because they sent several senior expert witnesses to appear before our committee. They were in a position to fully explain the background of the circumstances of these requests to remove certain provisions from the act.

Unfortunately, the committee did deal with a number of other potentially controversial proposals for which the same quality of information was not made available to us. General testimony provided by the Department of Justice is all very well as far as it goes, but we believe that, when a specific act deals with a specific department, an expert from that department should appear before the committee to explain why it is non-controversial and why it falls within the parameters of this proposal. An explanatory presentation by senior officials from the sponsor of the proposal serves both the interests of the committee and of the department itself.

Senators on the other side are probably more aware of this than I am, as it happened before I was appointed to the Senate, but in the committee's report on the 1990 proposals — this was the thirty-sixth report of the Thirty-Fourth Parliament, second session — the committee made several recommendations. I should like to refer you to them because I believe we should repeat those recommendations.

The proposals that came before them then, and that came again before us this time, deal with two different types of amendments. The first type consists of non-substantive anomalies, inconsistencies, archaisms, errors and the repeal of spent enactments. There are no problems there at all. The second type, though, is miscellaneous amendments and repeals of a non-controversial and uncomplicated nature. Most of the contentious proposals fall within this second category and are initiated by the department administering the legislation rather than by the Department of Justice. This category, I believe, should receive closer parliamentary scrutiny, since it can easily contain amendments that are substantive, rather than technical.

We agree with the 1990 report of the committee that these miscellaneous statute law amendments should be divided into two portions: those that are definitely non-controversial, and those that are potentially controversial. This would serve the interests of government; it would serve the interests of the department; and it would certainly make it much easier for the committee to do a thorough job of studying them.

The 1990 committee said that, for these reasons, the committee recommends that in future the proposals be divided into two parts, one to deal with true anomalies that would not be substantive, and the other to deal with miscellaneous, uncontroversial amendments and repeals that might be substantive, as long as they otherwise meet Justice criteria.

We feel strongly that the time has come for the committee to revisit this recommendation. To be specific, we want to make the following recommendations: First, any proposals that involve the removal of an approval requirement should be considered potentially controversial, particularly when public monies are involved. Parliamentary committees should have all of the relevant information at the time the proposals are tabled.

Second, where spent enactments are to be repealed, a witness from the sponsoring department should be available to explain the background and confirm that the enactment indeed is spent.

Third, we believe that references to a parliamentary review of legislation should not be repealed unless the committee receives written documentation that the review has actually taken place.

With those specific recommendations, we are presenting to you our ninth report, which does remove seven of the clauses that were presented to us.

• (1620)

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a few comments, and perhaps either the chair of the committee or any of the other members of the committee might provide the information that I am seeking.

As I understand it, and I stand to be corrected, adopting this report is simply accepting the analysis that the Standing Senate Committee on Legal and Constitutional Affairs has done on the report that was prepared by the committee. Therefore, by way of analogy, it is like a pre-study because a bill will come forward, and the bill will probably be drafted based upon the data contained in this report and on the proceedings of our committee.

There are a number of statutes that have provisions whereby a committee of the House of Commons is called upon to do a study or to receive a report but the Senate is left out. Could that error — a value judgment on my part — be corrected through this mechanism of miscellaneous statute adjustment, or would that fall into one of the categories of exclusion?

I refer honourable senators to the top of page 4 of the report, to which the chair drew our attention with respect to the committee having to deal with a number of controversial proposals that did not have the data attached or associated with it that the committee wanted. I take it that no action is being taken in the absence of the data the committee wanted, or has the committee simply made that observation and moved on to recommend, notwithstanding that observation?

The Hon. the Speaker: I take it, Senator Kinsella, that you were making a comment and putting a question to Senator Milne, or was it a rhetorical question?

Senator Kinsella: I believe I said I would appreciate clarification by either the chair of the committee or any other member of the committee who wants to comment.

The Hon. the Speaker: Perhaps if the honourable senator were to characterize it as a comment and a question.

Senator Milne, would you like to answer?

Senator Kinsella: It is a hybrid.

Senator Milne: Honourable senators, one of the criteria is that requests for amendments, such as Senator Kinsella has suggested, sometime in the future, are forwarded to the legislation section of Justice Canada. The request come primarily from federal departments and agencies, but they can be made by any individual. Anyone can do this. I expect it would be deemed to be rather controversial. We have before us in the Senate a private member's bill that is trying to clear up that matter right now.

Hon. Tommy Banks: I would draw to the attention of honourable senators the middle section of the report, which I believe we received today. I take note that the condition for consideration of legislative changes requires that the matters be non-controversial. I draw to honourable senators' attention the fact that the Standing Senate Committee on Energy, the Environment and Natural Resources is presently engaged in a study of nuclear safety. The third proposal would give the Nuclear Safety Commission "legislative discretion to authorize the return to work of an employee who 'may have' received an excessive dose of radiation, raising issues of safety and employee rights." Speaking for myself, I do not regard that as a non-controversial matter. It is among the matters presently being considered by the Energy Committee. When the legislation that, I understand, will derive after this report, comes before us, it may be the case that the committee will make recommendations with respect to amendments that have to do with this particular subject.

Senator Milne: Senator Banks, thank you very much for the chance to answer that.

The Hon. the Speaker: Honourable senators, I should have interrupted a moment ago. The time for Senator Milne's comments has expired. Is leave granted for her to continue?

Hon. Senators: Agreed.

Hon. Fernand Robichaud (Deputy Leader of the Government): Certainly, for Senator Milne to answer the last question that was put to her.

Senator Milne: Honourable senators, I would be delighted to give Senator Banks the thick sheaf of information that was given to us on this particular issue because we were very concerned that it might, indeed, affect the safety of individuals. It was pointed out to us that there has been a whole series of Orders in Council delegating to the commission and its predecessor the powers technically exercised by the Treasury Board over employees, and this is in keeping with other legislation.

It has been in place for a long period of time. They spent half an hour describing to us precisely what the safety regulations were and how they were being met, and answered our questions on this particular issue very clearly. I would be delighted to send the honourable senator the information.

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Milne, seconded by the Honourable Senator Chalifoux, that this report be adopted now. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

CANADA SHIPPING BILL, 2001

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Callbeck, seconded by the Honourable Senator Bacon, for the third reading of Bill C-14, respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts.

Hon. Donald H. Oliver: Honourable senators, it gives me great pleasure to rise on third reading on Bill C-14.

Honourable Senator Forrestall ably handled this bill for our side as Deputy Chairman of the Standing Senate Committee on Transport and Communications. He asked to be relieved of his task so he could concentrate fully on his new role as the Deputy Chairman of the newly minted Standing Senate Committee on Defence and Security. I am, therefore, in the unenviable role of taking over from Senator Forrestall on a transportation bill, a difficult task.

I want to begin by complimenting the Chair of the Standing Senate Committee on Transport and Communications, Senator Bacon, for the way she conducted hearings on the bill. I believe we heard from all interested groups, and they were able to present their views in a way that was unhurried and their points, therefore, were easily understood by all senators. This bill has had a thorough review in committee.

As we all know, one of the benefits of dealing with legislation in Senate committee is that a written report may accompany the bill back to the Senate and form part of our permanent record. The Standing Senate Committee on Transport and Communications availed itself of this procedure and, in its sixth report to the Senate chamber, included its observations on this bill.

I agree with those observations, which bear noting here. The committee is very concerned about pollution of our waterways by cruise ships as well as pleasure craft.

• (1630)

The committee is concerned about pollution of our waterways by cruise ships as well as pleasure craft. The provisions of the bill concerning pollution are very good but the enforcement jurisdiction is shared between two departments, Transport Canada and the Department of Fisheries and Oceans. I hope that they will be able to coordinate their efforts.

Also, it is important to repeat the words of our report that "all the best written legal provisions are meaningless, unless the enforcement is reinforced by monetary resources." We all know that Transport Canada is a shell of its former self. Resources must be made available for the implementation of these provisions to be effective.

The committee also wishes to pursue with the appropriate ministers additional measures that can be put into effect to ensure the safety of pleasure craft owners and the ecological integrity of our waterways. We will be having the ministers and department officials before the committee on a regular basis to monitor progress in these areas. As a lawyer, I am particularly concerned with the introduction of the enforcement tool of penalties. While there may be administrative appeals available, I want to be assured that there will still be access to the courts, by way of appeal, to overturn an unjust penalty.

While Bill C-14 is detailed legislation, there is still the authority for the Governor in Council to make regulations. Many senators are becoming more and more concerned with the fact that regulations are really outside the realm of parliamentary scrutiny. In my opinion, they should not be. The committee received an undertaking that regulations would be presented to the committee for review as soon as they are written. I know the committee will be vigilant in requiring this undertaking to be met.

There are two other issues to which I would like to refer that are not set out in the committee's observations. I mention them here not because I disagree with the committee report, but because they are two areas where we need to pay particular attention as to how the new act is being applied.

The brief submitted to the committee by the Canadian Maritime Law Association is compelling in its comments on the enforcement provision of Bill C-14. There are two ways the department may proceed to seek a remedy for an alleged breach of this bill. It can proceed through civil proceedings with a lower burden of proof, called on the balance of probabilities; or it can proceed through the lower courts, where the burden of proof is higher, called beyond a reasonable doubt. The issue, as pointed out by the Canadian Maritime Law Association is that the department has the discretion as to which method it chooses to use. The law association made it clear in its brief that there should be no substantial advantage to the department in the event it chooses to proceed administratively. In other words, the department should not have the advantage to prosecute weak cases through the administrative system, where it can take advantage of a lower and easier burden of proof.

Another issue raised by the Canadian Maritime Law Association is the fact that there is overlapping jurisdiction among a number of statutes for criminal liability for ship-source pollution. Water pollution has given rise to charges being laid with respect to a single circumstance under several different pieces of legislation and, with the adoption of the Canadian Environmental Protection Act, 1999, the list will probably only be lengthened. In addition, to the Canadian Shipping Act and the Arctic Waters Pollution Prevention Act, section 40 of the Fisheries Act as well as section 13 of the Migratory Birds Convention Act, 1994, may be used to lay penal charges. Section 12 of the Criminal Code states that an accused is not liable to be punished more than once for the same offence, regardless of the number of acts of Parliament under which proceedings can be taken. A similar protection exists at common law and under section 11 of the Canadian Charter of Rights and Freedoms. The Supreme Court of Canada reviewed the effects of multiple proceedings in *R. v. Cranapple*, 1975, 1SCR p. 729. However, I am concerned that there may be attempts to try the accused under more than one act. It would have been better to have a section in Bill C-14 giving priority to prosecutions under the Canada Shipping Act, 2001, and stating that additional charges would not be laid under other federal acts with respect to the same act or omission. Unfortunately, without such a clause, those being prosecuted would have to rely upon the common law doctrine of *res judicata*, the thing has been judged upon.

I was also struck by the brief submitted by the Canadian International Freight Forwarders Association, dealing with Part 15 of the bill, the Shipping Conference Exemption Act. This group's members are contractual carriers to Canadian exporters and importers on the one hand and buyers or customers of the shipping lines on the other. They want to be able to negotiate confidential service contracts with individual members of a shipping conference. However, they can only do this if there is a definition in Part 15 of Bill C-14, the Shipping Conferences Exemption Act, which legally recognizes freight forwarders as shippers. "Shippers" is defined in the equivalent U.S. act and the freight forwarders are quite willing to accept this definition of "shipper" contained in the Hamburg rules, which states:

Shipper means any person by whom or in whose name or on whose behalf a contract of carriage of goods by sea has been concluded with a carrier, or any person by whom or in whose name or on whose behalf the goods are actually delivered to the carrier in relation to the contract of carriage by sea.

It might be worthwhile for the Department of Transport to determine whether this definition could be placed in the regulations. It is important to this group because it would allow the freight forwarders to pool together the individual variants of small and medium-sized exporters so that the freight forwarders can negotiate an advantageous carrier rate for them so that exporters can maintain competitive rates. This provision is vital to allowing our small and medium-sized exporters to remain competitive in the world markets.

Honourable senators, in conclusion, the careful treatment of Bill C-14 by the Standing Senate Committee on Transport and Communications is but one more example of the excellent work done in Senate committees. Time is taken in asking probing, difficult questions of witnesses whom I know, in turn, appreciate the fact that they are given time to respond fully to those questions.

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Callbeck, seconded by the Honourable Senator Bacon, that this bill be read the third time.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

BROADCASTING ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Gauthier, seconded by the Honourable Senator Fraser, for the second reading of Bill S-29, to amend the Broadcasting Act (review of decisions).—(*Honourable Senator Finestone, P.C.*)

Hon. Sheila Finestone: Honourable senators, the purpose of Bill S-29 is to amend the Broadcasting Act in section 28 to extend the powers of internal review of the CRTC. This bill would give the commission the power to review, rescind or vary its decisions and permit it to re-hear any matter before rendering a decision. Bill S-29 would also bring the Broadcasting Act into concordance with the Telecommunications Act, where this power already exists under section 62.

I support Senator Gauthier's Bill S-29 for several reasons. This proposed amendment deals with the important issue of fairness and balance in decision making by the commission.

• (1640)

With convergence between broadcasting and telecommunications, and the emergence of the Internet, the lines between communications sectors and technologies have blurred.

With convergence, we have seen companies providing a wide range of broadcasting, data and telecommunications services, often with increasing links and sharing of content between different technologies. Takeovers, mergers and corporate expansion are among the factors playing a large role in companies' convergent activities. These changes, coupled with burgeoning competition, show the ever-growing complexity of the market place.

How content, such as television programming, is produced, distributed and consumed in the market is diverse and dynamic. In the past, with a few networks and local broadcasters providing content, largely through monopoly cable distributors, decisions about licensing and policy were simpler to make. However, changes in the market, such as increased competition, multiple channel technologies, programming diversification and emphasis on Canadian content, demand that our regulatory and policy framework be dynamic and flexible to accommodate both the changing nature of the market place, as well as the needs of consumers.

CRTC decisions can no longer be taken in isolation of convergence, changes in technology or the changing needs of the public. Decisions taken by the commission for one aspect of services cannot help but have implications for other areas. An imbalance in either representation by the public in decision making in any one of these areas or their ability to equally question decisions in any area, whether telecommunication or broadcasting, is no longer appropriate in our converged media system.

Policy, regulation and licensing should not be rigid and fixed, subject to review only once every several years. We must create the opportunity to revise them as the need arises, as circumstances in the industry and the needs of the public change. We must ensure that Canada's communications services remain relevant and benefit the public, whom they are intended to serve.

For these same reasons, it has not been an unusual practice for companies with licences to request that the CRTC revise the licensing terms before their licences are renewed. However, Bill S-29 demonstrates that this opportunity is limited or non-existent as the Broadcasting Act is currently written.

Like the Telecommunications Act, the Broadcasting Act does permit reviews, variances and the rescinding of some types of decisions. In particular, questions of law or jurisdiction are appealable to the Federal Court of Appeal. As well, petitions can be made to the Governor in Council, but — and this is a most important point — this is a narrow right, limited to requesting that the CRTC be directed to review a licence decision.

Honourable senators, issuing licences is just one part of the responsibilities performed by the CRTC under the Broadcasting Act. The commission also formulates policy frameworks, such as television policy and new media policy, and makes regulations, such as those for broadcast distribution undertakings, otherwise called cable television regulations.

With matters of policy or regulation, there is no provision in the Broadcasting Act, such as there is with the Telecommunications Act, to facilitate a review of a decision either by the commission itself or through petition to the Governor in Council. On the other hand, the Telecommunications Act contains the power to review a decision as a whole, as well as only part of a decision.

There are other examples of the problem identified by Senator Gauthier with TFO. For example, four years ago the commission held hearings to change the cable television distribution regulations. As part of these changes, new rules about community cable channels permitted companies to centralize production for these channels, thereby greatly reducing the involvement of local groups and communities, giving companies the option of not providing any community channel.

This policy change could not be appealed, as the power to appeal the CRTC decision was not envisioned in the Broadcasting Act, which is exactly what happened to TFO. However, I would note for the benefit of honourable senators that these exact same powers have existed in the Telecommunications Act since its inception in 1993.

The principle at stake is the same that informed Bill S-7. That is to say, in our democratic society citizens have a right to participate in public issues and decision making to their benefit and to the overall benefit of society. Moreover, when decisions are made by agencies of the Crown, the citizens of Canada should have the right to question these decisions.

While the review of the Broadcasting Act proceeds in the House of Commons, these two amendments — that is, Senator Gauthier's and mine — protecting the right of citizens to be heard and involving concerns of community groups, should be undertaken now and be reflected and supported during their review study.

Bill S-7, my bill, passed by the Senate in June and now being debated in the other place, would allow public interest groups to recoup some of their costs associated with participating in CRTC hearings. The awarding of costs to public and consumer groups is currently only possible under the Telecommunications Act.

In closing, I support Bill S-29 because it corrects an oversight that has the effect of diminishing the rights of the citizens of this country. This involves matters of fairness, the democratic right of participation and natural justice.

I call on honourable senators to think positively and to act on this bill.

The Hon. the Speaker: Honourable senators, I wish to inform the Senate that if Senator Gauthier speaks now, his speech will have the effect of closing debate on the motion for the second reading of this bill.

As I see no one else rising, I call on Senator Gauthier.

[Translation]

Hon. Jean-Robert Gauthier: Honourable senators, Bill S-29, as Senator Finestone pointed out, involves the same principle as Bill S-7, which was passed by this chamber in the spring and which is now under consideration in the House of Commons.

Simply put, Bill S-29 would give the CRTC the same powers it has under the Telecommunications Act, that is, to review its decisions, rethink its approach and perhaps even hear from other witnesses. It would make the process a bit more democratic. It would make things a bit more democratic by allowing review of decisions taken by the CRTC.

As things now stand, the CRTC cannot review a decision made under the Broadcasting Act, although it can review one made under the Telecommunications Act. All that Bill S-29 would do is level the playing field.

[English]

To make a level playing field, as we say in English, of the Broadcasting Act and the Telecommunications Act, by allowing the CRTC to review its decisions and possibly to hold further hearings.

[Translation]

Honourable senators, pursuant to rule 30, and with leave of the Senate, I move that Motion No. 68 on the Notice Paper be referred to the Standing Senate Committee on Transport and Communications.

The Hon. the Speaker: If no other senator wishes to speak, I will put the question.

The Honourable Senator Gauthier, seconded by the Honourable Senator Fraser, moved that Bill S-29 be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Gauthier, bill referred to the Standing Senate Committee on Transport and Communications.

[English]

AGRICULTURE AND FORESTRY

FARMING CRISIS IN MANITOBA AND WESTERN CANADA—
REPORT RECOMMENDING COMMITTEE OF THE WHOLE
TO HEAR MINISTER OF AGRICULTURE AND AGRI-FOOD—
DEBATE SUSPENDED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Agriculture and Forestry

(Committee of the Whole to hear the Minister of Agriculture) presented in the Senate on October 18, 2001.—(*Honourable Senator Gustafson*).

Hon. Leonard J. Gustafson moved the adoption of the report.

He said: I rise to speak on this order standing in my name, which requests that the Minister of Agriculture and Agri-Food appear before the Committee of the Whole in the Senate and give an account of the actions of the government. I want to say at the outset that I do not fault the minister alone. While he is the minister in charge, it is obvious that the matter of agriculture has been handled under the direction of the Prime Minister, the cabinet and government as a whole.

• (1650)

Honourable senators, in agriculture there are two major issues. First, in the grains and oilseeds, farmers have been labouring under extremely low commodity prices. That is one problem. Compounding that problem is the fact that drought has now raised its ugly head in Western Canada's provinces and in the Maritimes. It is really a crisis situation. I would say that it is almost as serious as the terrorism threat to Canada because the very livelihood of our farmers are at stake here, and unless I am misjudging the situation, there will be great fallout.

According to the statistics, 22,000 farmers quit last year in Saskatchewan. The sad part of the situation is that the farmers have lost their interest in farming. It is difficult in today's atmosphere to get farmers together for meetings. I have been talking to some of the farm leaders and they say that two years ago they could get thousands of farmers out to a meeting. They cannot get 200 farmers out today. Farmers have lost heart, and they have lost faith in government because the government has failed to help.

Honourable senators, this is a very serious situation. It is especially hard to see young farmers quit. I have two sons on my own farm who are giving up on farming. One went to the oil field, the other one went back to university study teaching, and we have a fairly large farm. That situation is repeated again and again. We are losing our young people.

According to the statistics given by the Leader of Government in the Senate, 57 is the average age of farmers. Those farmers are working harder than they have ever worked. I have talked to many farmers who have tears in their eyes when they tell me that they put their savings into their farms, and they do not know whether they should continue doing so in an attempt to try to keep the farm alive.

Honourable senators, the question is a serious one that comes before this body. We are a body of serious second thought. We have an important responsibility concerning agriculture that speaks to the very heart of this country.

I also want to talk about the global situation. I was in a meeting today with parliamentarians who are looking at world trade and the prospect of establishing a parliamentary group to respond to the farming situation. I raised the fact that agriculture is in a new global trade situation, as are many sectors of our economies. In agriculture particularly, the World Trade Organization has come up with recommendations to get countries away from subsidies. On the other hand, our committee went to Washington only to find out that their government had voted another \$171 billion over 10 years in subsidies. We discovered that subsidies are increasing, as we did two and a half years ago when our committee travelled in Europe. I have been around this place for 22 years, and I continue to hear the same old story: We have to get these countries off the subsidies, only to find out that the subsidies have increased.

Honourable senators, I make the point again: We are into a new global situation in which Canada must take a strong stand. Do we want a strong agriculture industry or not? We know that our agricultural population is below 2 per cent today, so politically we do not have any clout. When it comes to politics and votes, farmers really do not count. However, when it comes to food security, I can tell you we count. As a farmer who knows farming and who farms side by side with my neighbours, we can produce as good as anyone in the world and probably better than most. We can take on the Americans and out-produce them because we have not been spoiled as badly as they have been by subsidies.

Honourable senators, I now seek leave to introduce an amendment to the report that stands in my name.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, we understand that this is strictly a technical amendment and we would be more than prepared to give the honourable senator leave.

MOTION IN AMENDMENT

Hon. Leonard J. Gustafson: Honourable senators, I move:

That the Fifth Report of the Standing Committee on Agriculture and Forestry be amended to add the following after the words "to hear from Minister of Agriculture" and before the words "on the crisis":

and all other recognized farm groups, including the ones who appeared before us today,

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

Hon. Sharon Carstairs (Leader of the Government): We are willing to adopt the amendment at this point, but not the motion.

The Hon. the Speaker: I am sorry, is it your pleasure, honourable senators, to adopt the motion in amendment?

Senator Carstairs: No, we are agreeable to the amendment, not to the motion in amendment. We are only agreeable to the amendment that has been introduced, and then we want to return to debate the motion.

The Hon. the Speaker: I thought amendments were made by motion.

Is it your pleasure honourable senators, to adopt the amendment?

Hon. Senators: Agreed.

Motion in amendment agreed to.

Hon. Jack Wiebe: Honourable senators, I am extremely pleased that the chairman of the committee has decided to accurately reflect the wishes of those present at the committee when this particular report was moved and debated. My remarks will be considerably longer than the time available between now and five o'clock.

Debate suspended.

IMMIGRATION AND REFUGEE PROTECTION BILL

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Cordy, seconded by the Honourable Senator LaPierre, for the third reading of Bill C-11, respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger,

And on the motion in amendment, of the Honourable Senator Andreychuk, seconded by the Honourable Senator Cochrane, that Bill C-11 be not now read a third time, but be read a third time on a day six months hence.

The Hon. the Speaker: Honourable senators, it is now five o'clock and it being five o'clock, pursuant to the order adopted by the Senate on Thursday, October 4, 2001, it is my duty to interrupt the proceedings to dispose of third reading of Bill C-11. Is it your pleasure, honourable senators, to adopt the motion in amendment?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: Honourable senators, I believe there is uncertainty. Will those in favour of the motion in amendment please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those opposed to the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the “nays” have it.

And two senators having risen:

The Hon. the Speaker: We will have a standing vote. Call in the senators. The division bells will ring until 5:30. Nil

• (1730)

Motion in amendment negated on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Kinsella
Beaudoin	Lawson
Bolduc	LeBreton
Carney	Lynch-Staunton
Cochrane	Murray
Comeau	Nolin
Di Nino	Oliver
Doody	Prud'homme
Eyton	Rivest
Gustafson	Spivak
Johnson	Stratton
Kelleher	Wilson—24

NAYS
THE HONOURABLE SENATORS

Adams	Hubley
Bacon	Jaffer
Banks	Joyal
Biron	Kenny
Bryden	Kolber
Callbeck	Kroft
Carstairs	LaPierre
Chalifoux	Lapointe
Christensen	Losier-Cool
Cook	Mahovlich
Cools	Milne
Corbin	Moore
Cordy	Pearson
Day	Phalen
De Bané	Poulin
Fairbairn	Poy
Ferretti Barth	Robichaud
Finestone	Roche
Finnerty	Rompkey
Fitzpatrick	Setlakwe
Furey	Stollery
Gauthier	Taylor
Gill	Tunney
Grafstein	Watt
Graham	Wiebe—51
Hervieux-Payette	

ABSTENTIONS
THE HONOURABLE SENATORS

The Hon. the Speaker: We are now on the main motion.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: Will those honourable senators in favour of the motion will please say “yea”?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion please say “nay”?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the “yeas” have it.

And two honourable senators having risen:

The Hon. the Speaker: There will be a standing vote. Pursuant to the order which I have already read, all matters must be disposed of at this time and accordingly the vote will take place now.

Motion agreed to and bill read third time and passed on the following division:

YEAS

THE HONOURABLE SENATORS

Adams	Hubley
Bacon	Jaffer
Banks	Joyal
Biron	Kenny
Bryden	Kolber
Callbeck	Kroft
Carstairs	LaPierre
Chalifoux	Lapointe
Christensen	Lawson
Cook	Losier-Cool
Cools	Mahovlich
Corbin	Milne
Cordy	Moore
Day	Pearson
De Bané	Phalen
Fairbairn	Poulin
Ferretti Barth	Poy
Finestone	Robichaud
Finnerty	Roche
Fitzpatrick	Rompkey
Furey	Setlakwe
Gauthier	Stollery
Gill	Taylor
Grafstein	Tunney
Graham	Watt
Hervieux-Payette	Wiebe—52

NAYS

THE HONOURABLE SENATORS

Andreychuk	Kinsella
Beaudoin	LeBreton
Bolduc	Lynch-Staunton
Carney	Murray
Cochrane	Nolin
Comeau	Oliver
Di Nino	Prud'homme
Doody	Rivest
Eyton	Spivak
Gustafson	Stratton
Johnson	Wilson—23
Kelleher	

ABSTENTIONS

THE HONOURABLE SENATORS

Nil

[Translation]

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO MEET DURING
SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Lise Bacon: Honourable senators, with leave of the Senate and notwithstanding rule 95(4), I move that the Standing Senate Committee on Transport and Communications have the power to sit while the Senate is sitting today.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

[English]

AGRICULTURE AND FORESTRY

FARMING CRISIS IN MANITOBA AND WESTERN CANADA—REPORT
RECOMMENDING COMMITTEE OF THE WHOLE TO HEAR
MINISTER OF AGRICULTURE AND AGRI-FOOD—
MOTION TO ADOPT DEFEATED

On the Order:

Resuming debate on consideration of the fifth report, as amended, of the Standing Senate Committee on Agriculture and Forestry (Committee of the Whole to hear the Minister of Agriculture) presented in the Senate on October 18, 2001.

Hon. Jack Wiebe: Honourable senators, I want to thank you all for the opportunity to have a short break in my remarks in reply to the fifth report of the Standing Senate Committee on Agriculture and Forestry. I want to deal mainly with the report.

In his remarks, the chairman of the committee certainly demonstrated to all of us that there is a very serious situation in the agriculture industry. It is for that reason that in March of this year the Agriculture Committee approached this chamber for an order of reference to study the current and future health of the agriculture industry in this country. I want honourable senators to remember that that was in March of this year.

On April 4 of this year, 38 sitting days ago, one of the very first witnesses to appear before our committee was the Minister of Agriculture. Since then, our committee has invited farm organizations from across the country to appear before it to let us hear their concerns so that we could, in turn, present a knowledgeable report to this chamber.

Honourable senators, if you read the report that is before us today, what does it say? It calls on this chamber to call the Minister of Agriculture and all farm organizations in this country to appear before this chamber. That tells me that the members of the committee who voted in favour of this report have quit. They have given up on the farmers in this country. They have stuck their tails between their legs and have come back to this chamber to ask this chamber to do their job for them.

Honourable senators, I cannot buy that. I believe seriously that by working together this committee can present recommendations on the current health of the agriculture industry in this country, as well as its future.

Honourable senators, that was not the main reason I voted against this report. I want to take a few minutes to tell honourable senators why I did just that. I believe one of the major responsibilities of any standing committee of the Senate when presenting a report is to ensure that the report is well thought out and well documented. Most important, it must not in any way even hint at misleading this chamber, for this chamber is the highest court in the land.

Let us look at the report that was presented to us. Sadly, it attempts to mislead the highest court in the land. It attempts to mislead this chamber. There is an accusation in this report that the Minister of Agriculture cancelled his appearance before the committee on October 18; for that reason, it was important for this committee to bring this report to the chamber.

I have been a member of this committee since April 2000. During the 18 months since, the Minister of Agriculture has on three occasions been invited to appear before the committee. Each and every time, our committee, along with his department, have been very accommodating to find a date convenient for both the minister and the committee. I want to emphasize that the Minister of Agriculture has never refused to appear before this committee, nor has he ever cancelled a date to appear before this committee. That indicates to me the great value that the minister places on the work of the committee. Clearly, it reveals his deep concern for the well-being of the agriculture sector of this country.

As I mentioned earlier, the minister last appeared before the committee on April 4 of this year. That is just 38 sitting days ago. On August 29 of this year, the steering committee decided to invite Minister Vancilief to appear before the committee during the month of October and suggested the dates of October 18 or October 25.

Our committee clerk was away from September 3 to September 10. As a result, he did not contact the Parliamentary Affairs Office of Agriculture Canada to invite the minister to appear before the committee until September 12 of this year.

• (1750)

During the following weeks, a few phone calls were exchanged between the clerk and the parliamentary relations officer from Agriculture and Agri-Food Canada to verify the progress of confirming the appearance dates. On October 4, the clerk distributed to the committee members the proposed schedule for October. That schedule clearly indicated on October 4 to all senators who would take the time to read it that the minister had not confirmed any of the dates. I have that report right here. That is what appeared. Each and every senator on the committee received this report on October 4. It shows that on October 16 we were to study Bill S-22. It had been confirmed that representatives of the Canadian Horse Breeders Association

and Rare Breeds of Canada would appear before us. It had not been confirmed that representatives of the Upper Canada District Canadian Horse Breeders would appear.

This schedule indicates that the Minister of Agriculture would appear on October 18, and beside that it indicates — on the schedule received by every senator on that committee — “not confirmed.” Let me emphasize “not confirmed.”

On October 5, the next day, the clerk was notified that it appeared October dates would not be possible, and a request was made by the minister’s department for this committee to provide alternative dates for the month of November so the minister could appear before this committee.

Honourable senators, that indication by the Minister of Agriculture clearly demonstrates his willingness to appear before this committee, to allow the committee to do its work and to give us an opportunity to do our job.

The accusations against the minister in this report are very serious. They have no basis in fact, and I urge all senators in this chamber to join with me in voting against this report.

In conclusion, I believe sincerely that our committee, by working together, can find the answers to the agricultural crisis in this country. I believe sincerely that we have a tremendous job ahead of us. Let me also sincerely say that we, as a committee, have just as great a job to do to ensure that once again our committee can earn the respect of this chamber in any future reports that we present.

Hon. Terry Stratton: Would Senator Wiebe entertain a question?

Senator Wiebe: Certainly.

Senator Stratton: We appreciate on our side the minister’s willingness to attend to the Agriculture Committee on the dates that Senator Wiebe stated. No one is quibbling with that. We are concerned that during this time frame, up to September 11, magnificent surpluses were reported to us by the Minister of Finance, for which the Leader of the Government in the Senate likes to take credit, magnificent surpluses due to good fiscal management. Yet, 22,000 farmers left the business in Saskatchewan last year and 8,000 farmers left the business in Manitoba last year. Is the honourable senator telling us that, given those statistics, he is happy and satisfied that the minister has been effective as an advocate for farmers in Canada?

Senator Wiebe: Honourable senators, I cannot speak on behalf of the minister, but I will say first that this is the second time I have heard the figure of 22,000 farmers leaving Saskatchewan this year. Again, I would ask that the honourable senator check his facts before he issues them. The figure of 22,000 includes individuals involved with the agricultural industry in the province who have lost their jobs — that is, people involved with grain buying, trucking, fertilizer, chemicals and so on. The honourable senator left the impression that it was 22,000 actual farmers. That is not the case.

Honourable senators, certainly there is a serious issue out there. The Minister of Agriculture feels that crop insurance is a vital part of the agricultural business in this country. In order for farmers to obtain the cash advances they need, they have to take out crop insurance. As a result, the highest percentage of farmers with crop insurance in this country was in this year. Over 74 per cent of farmers took out crop insurance and will be receiving that insurance as a result of what happened to their crops this year. That is above and beyond the programs that are there now.

The honourable senator realizes, I am sure, that this is October. Many of the claims that have evolved around crop insurance have not yet had an opportunity to be adjusted. Once those adjustments are made and once the final analysis about what happened this year is made, I am confident that the Minister of Agriculture will take a look at the situation as it appears today.

Senator Stratton: Honourable senators, the figure is still 22,000 lost jobs in the agricultural sector in Saskatchewan. It is still 8,000 lost jobs in the agricultural sector in Manitoba. Is the honourable senator satisfied with that? Does he think it appropriate in times of a booming economy in, times of magnificent surpluses, to treat the agricultural sector in that fashion?

Senator Wiebe: Honourable senators, the best way to answer that question is to go back to what I said in my remarks. Do I feel that this situation is serious? Yes, I do. If I did not feel it was serious, why in the world would I have approached, along with Senator Stratton and other members of the committee, this chamber in March of this year asking for an order of reference to deal with this very issue? That, I hope, answers the question. Yes, I felt the crisis was serious enough to devote an agricultural committee of this chamber to investigate the agricultural sector in this country. I am sure that the other senators on that side felt just as sincere about it as I did.

Senator Stratton: Honourable senators, of course, the honourable senator heard me in the committee. When this issue came forward, I became rather angry that we should have another study with respect to agriculture. How many times do we have to do this? How many times do we have to call the same people back to tell us the same stories over and over again — to get nothing? How many times do we have to go through this? We have done it before on more than one occasion. How many times do we have to do this, because nothing is happening?

With respect to the 22,000 lost jobs in Saskatchewan and the 8,000 in Manitoba, would the honourable senator tell me what is the purpose of this study when nothing happens? We should not conduct another study unless he can promise and assure us something will happen for the farmers.

Senator Wiebe: Honourable senators, the best way to answer that question is with a question. If we are hearing the same thing over and over again, then why did the honourable senator vote for a report that would call on this chamber to invite those farmers to say the same thing all over again?

Senator Stratton: Which report was that?

Senator Wiebe: The report we are debating now, No. 5 on the Order Paper.

The Hon. the Speaker: I am sorry to interrupt, but Senator Wiebe's 15 minutes have expired.

• (1800)

I would draw to honourable senators' attention that it is six o'clock. Is it your wish not to see the clock?

Hon. Senators: Agreed.

Hon. Leonard J. Gustafson: Honourable senators, I have several questions.

The Hon. the Speaker: Senator Gustafson would only be permitted to ask a question on Senator Wiebe's time if his time were extended. It has not been extended.

Hon. Sharon Carstairs (Leader of the Government): I wish to speak to the motion.

Honourable senators, I have been in this chamber for seven years. I know some of you are my seniors. However, I have never, ever seen the disrespect to a minister in this chamber that I saw in this particular motion.

If you think I am angry, honourable senators, you are absolutely right. I am very angry. I sit at the cabinet table with the Minister of Agriculture. When I went to the cabinet after this had been tabled in the Senate, I put the question to him directly, "Minister, did you refuse to attend the meeting this morning with the agriculture committee?" He said, "No, I had no meeting this morning."

That, of course, has been absolutely confirmed by what Senator Wiebe has said in his remarks. He had never ever confirmed his attendance at this particular meeting on October 18. Never.

A report comes to this Senate showing absolute disrespect to a minister of the Crown, and we call ourselves the chamber of sober second thought? There was no sober first thought on this particular proposition. The tragedy of this is that the agriculture community in this country is, indeed, in very difficult circumstances. That is exactly why the committee is conducting this study.

Perhaps it frustrates Senator Stratton and, perhaps, others, that not enough of a response comes to their committee's suggestions. We are all frustrated on occasion, honourable senators. I come from a farm province. I can be frustrated about the conditions within the farm and agricultural sector as well.

However, that is no reason, honourable senators, to stand in this chamber and deliberately lay down a motion before this house that gives false information about a minister of the Crown. That is what this motion does.

Honourable senators, on a number of occasions this Senate has not been very happy with the behaviour of ministers. I have supported senators in their comments about certain actions taken by ministers. I have gone to cabinet and knocked a few heads because I think that is appropriate as the Government Leader in this chamber representing your views. However, in this particular case, the Senate owes the Minister of Agriculture an apology.

Senator Gustafson: Honourable senators, may I ask the Leader of the Government in the Senate a question?

Senator Carstairs: Certainly.

Senator Gustafson: The minister may not be aware that at the first steering committee meeting, which was made up of Senator Wiebe and another senator on that side of the house, the decision was taken to invite three ministers: the Minister of Agriculture, the Minister of Trade and Minister Ralph Goodale. Up to that date, not one of them had appeared before the committee. In a phone call the clerk asked me if I would phone the Minister of Trade to see if a minister would appear before the committee. I did that. I phoned.

A secretary answered and asked, "What has the Minister of Trade to do with agriculture?", to which I responded, "We produce 25 per cent of the trade of Canada, and you ask me that question?" I later received a phone call saying that the Minister of Trade would appear. He had been invited three times and he had turned us down three times.

The decision of the steering committee was that the most important issues before the committee and before the farmers was the crisis in agriculture, and we invited the three ministers.

Senator Carstairs: Honourable senators, I am not sure there was a question in that, but if the question was whether I was aware, yes, I was made aware, after the motion was put down. However, I am only aware of the situation as it relates to the Minister of Agriculture, not the Minister of International Trade or the Minister responsible for the Canadian Wheat Board. The Minister of Agriculture appeared on April 4.

You put down another motion indicating that he would not appear on October 18. What I find even more insulting is that the committee was meeting on October 16, 18, 23, 25, 30 and November 1. Did you offer him all of those dates? No. You offered him October 18 or 25. The immediate reply from his office staff was that the October 25 was impossible, and that October 18 would be taken under consideration, and by September 11 they had responded that that date was not possible either, and they asked if they could work out another date.

Then the honourable senator comes into this chamber and says that the minister did not appear on a date on which his own records indicate "not confirmed."

I know the honourable senator did not move this motion in the committee. He was the Chair of the committee. Senator Tkachuk moved the motion. He took great pride in coming into the

chamber that afternoon and saying in a senator's statement, "Look what we did in our committee today, before you even had a chance to table your report."

I still tell you in the strongest possible terms that the Minister of Agriculture deserves an apology.

The Hon. the Speaker: We have before us the consideration of the fifth report of the Standing Senate Committee on Agriculture and Forestry. Is the house ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

Senator Stratton: What are we voting on?

The Hon. the Speaker: We are voting on Order Paper Item No. 2 under Reports of Committee, the fifth report of the Standing Senate Committee on Agriculture and Forestry, as amended. Having put the question, and the response being unclear, I will now follow the usual procedure and ask that those in favour of the motion please say "yea."

We put the question on the motion in amendment. The amendment was disposed of several minutes ago. Therefore, we are voting on the motion, as amended.

Will those honourable senators in favour of the motion will please say "yea"?

Senator Stratton: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion will please say "nay"?

Some Hon. Senators: Nay.

Senator Kinsella: On division.

The Hon. the Speaker: The motion is defeated, on division.

[Earlier]

NATIONAL FINANCE

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I would ask for the unanimous consent of the house to make a technical intervention regarding the management of our committees.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Kinsella: Honourable senators, I move, seconded by Senator Robichaud:

That the Standing Senate Committee on National Finance have permission to sit this evening, even though the Senate will still be sitting.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

DEFENCE AND SECURITY

BUDGET—REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kenny, seconded by the Honourable Senator Moore, for the adoption of the second report of the Standing Senate Committee on Defence and Security (budget—release of additional funds) presented in the Senate on September 25, 2001.—(*Honourable Senator Stratton*).

Hon. Terry Stratton: Honourable senators, this issue has been on the Order Paper for six days. There has been an urgency expressed by the Chair that this should be dealt with quickly. I am curious to know why. I would ask the Chair of the committee whether he will respond to a few queries that I will put forward now.

• (1810)

If honourable senators will look at the Order Paper of today, October 31, they will see that Order No. 3 under Reports of Committees on page 6 has the notation “(six)” beside it. Order No. 4 has the notation “(seven)” beside it. Order No. 5 has the notation “(seven)” beside it. Beside Order No. 6 there is the notation “(nine).”

The Hon. the Speaker: Senator Stratton, I should clarify that you are entitled to speak on the motion. However, it may be necessary for us to obtain leave of the Senate to allow Senator Kenny to respond to your questions.

Honourable senators, is leave granted?

Hon. Senators: Agreed.

Senator Stratton: When we look at those four items, we see that they will be on the Order Paper for anywhere between six to nine days. It is not unusual for a committee report to remain on the Order Paper for quite a number of days. I would ask the chair of the committee to respond as to why there is urgency for this report to be passed at this time.

When we look at the load that the chamber has had recently with respect to Bill C-36 and Bill C-11, we see, especially those of us on this side, that we are struggling to keep current with the events as they transpire.

I ask again: Why is there this urgency to deal with the issue now? Surely, it could wait for a proper debate as we go down the road.

I turn now to the issue of the committee wanting to travel and spend \$100,000 — at least that is what the report says — to determine what the role or mandate of the committee will be. Again, I ask the question, as I have asked the committee chairman on numerous occasions, once directly and then indirectly through other individuals: Why must the committee travel?

While the Defence and Security Committee was pushing for \$100,000, the Human Rights Committee, which is determining its mandate, had a budget of \$6,000 imposed on it. They will simply spend a few bucks on lunches to determine their mandate. If they took the same approach as the Defence and Security Committee, they would want to travel, of course, and spend \$100,000. The next thing you know, another committee would be doing this. The wheels would then start to come off because we would be out of financial control.

I have served on committees that have wanted to travel and have been unable to do so simply because it was deemed by Internal Economy to be inappropriate. It was said to us that we could and should do the study in Ottawa and call in witnesses from outside Ottawa, which is what the Human Rights Committee is doing.

Again, I ask the question: Why does the committee have to travel when these hearings could be held in Ottawa?

Senator Murray asked Senator Kenny how he would determine the mandate of his committee. The reply was that he would take a little from this committee, a little from that committee and a little from another committee. That, of course, was of concern to Senator Murray. He did not feel his question was answered appropriately.

Having said that, we have asked again on a couple of occasions — and probably more than a couple — for the honourable senator to effect a compromise. His committee should sit down to do a small mandate study here in Ottawa. In all likelihood, having done that, the committee would then receive the budget to travel, which it should do.

Because there was concern expressed on both sides about the way the committee was approaching things, we simply asked: Why does the committee have to travel to determine its mandate? The answer that came back was that there would be no compromise — absolutely no compromise.

We are in a conundrum here as to why there is no compromise and why we cannot ask the committee to do that.

It is important for this chamber to know what the anticipated budget will be, excluding the \$100,000 request, to take us to the end of the fiscal year. It is important for this chamber to know that in order to make a determination as to whether to approve this report.

Hon. John G. Bryden: Honourable senators, I rise on a point of order so as to understand the procedure. Senator Kenny is replying to questions. He is not speaking to close the debate, is he?

The Hon. the Speaker: Senator Kenny is entitled to close the debate. He would not have to respond to questions. He might choose not to close the debate with a speech. The way we are proceeding is that Senator Stratton has resumed debate. In the content of his presentation, he has raised a number of questions. I intervened to ask leave of the chamber for Senator Kenny to answer the questions. We are not in a normal situation in that at the beginning of Senator Stratton's remarks leave was given for him to put questions to Senator Kenny. Senator Kenny still has the right to respond. Whether he will choose to do so, I do not know.

Hon. Colin Kenny: Honourable senators, Senator Stratton has asked me a series of questions. It is fortunate that all of them have been dealt with already.

I refer honourable senators to page 1351 of the *Debates of the Senate* for October 2, 2001. There, honourable senators will see that every question that Senator Stratton has asked has been answered and dealt with in its entirety.

Senator Stratton: Honourable senators, is that the honourable senator's complete response, even with the sense of urgency? Normally, we can go 15 days before an item drops off the Order Paper. For example, my Bill S-20 had to be regenerated after 15 days because His Honour was away and we awaited his decision. Why would another two or three sitting days bother the Honourable Senator Kenny in allowing a debate to take place now? We have dealt with Bill C-11 and, hopefully, the terrorism bill. Will we have a chance to open the debate again? That is my fundamental question.

Senator Kenny: Honourable senators, I thank the Honourable Senator Stratton. The six days to which he refers are six days he has not had a speaker speak to this item. If it was an urgent and pressing matter, he would have had someone speak to it by now.

Senator Stratton: I explained to the honourable senator today why we have not dealt with the issue. I said that our ranks are thinning and we are overloaded. We need time to get the larger issues out of the way and then deal with this issue.

Senator Kenny: Honourable senators, I submit to Senator Stratton that he does not have other speakers. Notwithstanding that, if he did have other speakers, he has had an opportunity to bring them forward.

Hon. Eymard G. Corbin: Honourable senators, I am not a member of the committee in question. Nevertheless, I question the way we do business around here.

• (1820)

There was a lot of tugging and pulling and hassling about setting up two more committees, including this one. I resisted the idea because, along with other honourable senators, I thought we should set up a third committee. For reasons well known on both sides of the house, that did not occur.

Once we are given a mandate to convene a committee, surely we are entitled to believe that the financial implications of setting up such a committee have also been considered. Otherwise, I think we would be rather foolish to do that. After all the efforts and the talk, back and forth, that went into finally getting this particular committee set up, we must now face the music. Do we still want that committee to be constituted, or do we not?

It so happens that I had two brothers in the Armed Forces, one in the Royal Canadian Navy, as it was then called, and another in the Second Battalion of the Black Watch. I was in politics when they were still members of the Armed Forces. In the other place, I was frequently involved in discussions and examinations of national defence military matters. I would discuss these matters with my brothers when the opportunity arose. It always amazed me that what we heard from the top brass here in Ottawa was not what my brothers understood. They did not see things in the same way because they were on the front line. Both of them were involved in peacekeeping missions, one in Korea and one in Cyprus.

I have always been amazed by the extent of the two sides to the same story. Over the years, I have developed quite a bit of reserve in terms of what I hear here in Ottawa. I do not think that, as has been suggested, bringing witnesses to Ottawa will give us a very good understanding of what is going on in the various wings of the military. I do not think that we will be able to hear what the women and the men who do the footwork have to face every day — they and their families. I know something of those effects as seen in the family of one of my brothers. It is not an easy life.

I do not think much would be gained by hearing testimony in Ottawa. I do not think there would be enough time in one session to glean the amount of information you can pick up by visiting the military establishments across the country. This committee does not want to visit every place in trying to determine its future agenda, but members have carefully picked areas of interest. Indeed, I raised with Senator Kenny the question of why certain locations were not chosen. Of course, he told me that there were some constraints, not only budgetary constraints, but also time constraints.

All this committee is requesting is to be allowed, in the early days and hours of its existence, to get down to brass tacks and to determine how to properly do its job.

This is not the first time we a defence committee or a subcommittee of another Senate committee has examined defence matters. I well remember when I first came here in the mid 1980s. I remember Senator Paul Lafond as Chairman of the Standing Senate Committee on National Defence and a number of the reports that his committee tabled. I remember discussing matters of that committee with my late friend and sponsor, Senator Charles McElman.

I have always retained my interest in military and defence matters and, indeed, security matters. I was a member of the famous Kelly committee in the last round. I was deeply involved in those intelligence and security matters. I think I know what I am talking about.

I would like someone in this house to explain to me why it is that we are now stalling. Why are we not allowing this committee to go forward with its work? Are they asking for too much money? Must the budget be pared down? Is there a way to compromise? Can decent, intelligent, civilized people not sit down together and work this out somehow? Are we to start playing little games or will we truly be concerned with the lives and work of the men and women in our Armed Forces and what this country needs for the future? That is the issue here.

The Lafond committee was able to travel *gratis* on many of its missions with the Armed Forces, to our base in Lahr, for example. Unfortunately, that availability no longer exists. I do not think we should go begging, cap in hand.

The Armed Forces are entitled to have serious people look seriously at what is not working right and what needs to change for the proper defence and security of this country. I plead with my colleagues, in the spirit of compromise that has been the hallmark of the Senate in many issues, although perhaps not all, to allow this committee to proceed to do a good job for the men and women, sons, daughters, brothers and cousins, who are committed to doing their jobs well in the defence of this country.

Senator Bryden: Honourable senators, I move the adjournment of the debate.

Senator Kenny: No.

The Hon. the Speaker: It is moved by the Honourable Senator Bryden, seconded by the Honourable Senator Poy, that further debate on this motion be adjourned to the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker: I believe there is uncertainty such that I will go to our process of determining whether or not we require a standing vote.

Will those honourable senators in favour of the motion to adjourn please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion will please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: It is very close. I believe the nays have it.

And two honourable senators having risen:

The Hon. the Speaker: We will have a standing vote. This is a non-debatable motion but, as I read the rules, we must vote accordingly. Call in the senators.

Have the whips agreed on the length of the bell?

Senator Stratton: Must we vote now? Can we defer to tomorrow?

The Hon. the Speaker: Honourable senators, a vote on a motion to adjourn is not a deferrable vote.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): There is precedent for that.

The Hon. the Speaker: Accordingly, we must vote now. The only question is the length of the bell. The bells will ring for one hour, unless there is agreement otherwise.

Senator Stratton: Now.

Hon. Nicholas W. Taylor: On a point of order, I think His Honour is correct about a motion to adjourn the Senate. To adjourn the debate to the next sitting of the Senate requires a straight vote. I do not think a motion to adjourn debate so that someone else may speak is the same as a motion to adjourn the proceedings of the Senate.

The Hon. the Speaker: Honourable senators, Senator Taylor catches me without the rule in hand. If I could seek the patience of the chamber, I will quote the appropriate rule.

The relevant rule, honourable senators, is rule 67(1) which indicates:

After a standing vote has been requested, pursuant to rule 65(3), on a motion which is debatable in accordance with rule 62(1), either Whip may request that the standing vote be deferred as provided below.

The motion we are dealing with is not a debatable motion. Accordingly, the rules for deferral do not apply and, accordingly, we should hold the vote now. We must vote now, and the rules call for a one-hour bell. The whips in the past have commonly agreed to a shorter bell. I would invite them to comment on the length of bell they think appropriate in this case.

Senator Stratton: A bell of five minutes.

The Hon. the Speaker: Honourable senators, I have just been reminded by the Table that Senator Murray raised a question of privilege when we had a bell shorter than 15 minutes. It related to giving senators from the Victoria Building enough time to reach the chamber in order to vote. I would suggest a 15-minute bell?

Senator Stratton: That is agreeable.

The Hon. the Speaker: Call in the senators. The bells will ring for 15 minutes.

• (1850)

Motion carried on the following division:

YEAS
THE HONOURABLE SENATORS

Adams	Gustafson
Andreychuk	Hubley
Beaudoin	Kelleher
Biron	Kinsella
Bryden	Lawson
Callbeck	Lynch-Staunton
Carstairs	Mahovlich
Chalifoux	Oliver
Christensen	Poulin
Cochrane	Poy
Comeau	Robichaud
Di Nino	Roche
Finestone	Rompkey
Finnerty	Stratton
Fitzpatrick	Taylor
Fraser	Tunney
Gill	Watt—35
Graham	

NAYS
THE HONOURABLE SENATORS

Banks	LaPierre
Cools	Moore
Corbin	Phalen
Day	Setlakwe
Jaffer	Stollery
Kenny	Wiebe—13
Kroft	

ABSTENTIONS
THE HONOURABLE SENATORS

Grafstein
Kolber—2

VISITORS IN THE GALLERY

The Hon. the Speaker: Before proceeding to the Order Paper, honourable senators, I should like to draw to your attention the presence of a guest in our gallery, the Honourable David Young, the Attorney General for the Province of Ontario.

Hon. Senators: Hear, hear!

PRIVILEGES, STANDING RULES AND ORDERS

FOURTH REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Callbeck, for the adoption of the fourth report of the Standing Committee on Privileges, Standing Rules and Orders (now called the Standing Committee on Rules, Procedures and the Rights of Parliament) (*name change of the Defence and Security Committee*) presented in the Senate on September 19, 2001.—(*Honourable Senator Stratton*).

The Hon. the Speaker: Honourable senators, there is an objection to the standing of this item, and we have just been through the procedure. In the event it is necessary to deal with the objection as a motion if debate is not resumed.

Does the Honourable Senator Stratton wish to move adjournment of the debate?

Hon. Terry Stratton: Yes, I do.

The Hon. the Speaker: It is moved by the Honourable Senator Stratton, seconded by Senator Kelleher, that further debate on this matter be adjourned to the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion to adjourn debate?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Will those honourable senators in favour of the motion please say “yea”?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion please say “nay”?

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the “yeas” have it.

And two honourable senators having risen:

The Hon. the Speaker: We will have a recorded standing vote. It is a non-debatable motion, not deferrable. We have a question of the length of bell.

Senator Stratton: Fifteen minutes.

The Hon. the Speaker: Call in the senators. There will be a 15-minute bell.

• (1910)

Motion negated on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Kinsella
Beaudoin	Lynch-Staunton
Bryden	Oliver
Cochrane	Prud'homme
Comeau	Roche
Gustafson	Stratton—13
Kelleher	

NAYS
THE HONOURABLE SENATORS

Bacon	Joyal
Banks	Kenny
Biron	Kolber
Callbeck	Kroft
Carstairs	LaPierre
Chalifoux	Lawson
Christensen	Mahovlich
Cools	Milne
Corbin	Moore
Day	Phalen
Finestone	Poulin
Finnerty	Poy
Fitzpatrick	Robichaud
Fraser	Rompkey
Gill	Stollery
Grafstein	Taylor
Graham	Tunney
Hubley	Watt
Jaffer	Wiebe—38

ABSTENTIONS
THE HONOURABLE SENATORS

Adams—1

The Hon. the Speaker pro tempore: Honourable senators, I declare the motion lost.

We will resume the debate on Order No. 6.

Senator Stratton: Honourable senators, I should like to speak briefly to this issue.

In order that the chamber understands where members of this side are coming from on this issue, we had originally asked the Honourable Senator Kenny to effect a compromise. As I said earlier, we had asked him to compromise, not just once but repeatedly, both directly and indirectly through intermediaries.

I told him that our side did not feel comfortable in approving the name change until the first issue had been dealt with in a compromise situation. That is exactly what we asked Senator Kenny to do in quite clear terms.

Personally, I do not have a problem with the name change, although I think it should still be Defence and Security. The linkage was to the first issue on the budget. It is that issue that I felt was the critical one that had caught the attention of this chamber. We felt that it should be dealt with in the first instance before dealing with the second issue.

When I participated in the debate concerning the budget of the committee, I asked Senator Kenny what the budget was for the committee to the end of the fiscal year. He sent to me documentation with respect to that. In a cursory glance at that, I did not see what the budget would be to the end of the fiscal year.

Again, with leave of the Senate, I would ask if Senator Kenny would respond to me now so as to clear up the question I still have in my mind with respect to the budget. It is appropriate that he tell this chamber what that budget is anticipated to be at the end of the year rather than referring to a document. It is appropriate for the senator to tell the chamber, in no uncertain terms, what he believes that budget should be. That is a fair question to ask. Since he is the chair of the committee, it is something that he could quite readily provide.

The issue we have concerns tying these two matters together. I believe that it is important for this chamber to allow the first issue to proceed. If that is not done, we will be taken into peril. Allowing that kind of money to be spent to define what this committee shall and shall not do is of great concern to those of us on this side of the chamber. When compared with the Human Rights Committee, this issue is of particular concern. If the Human Rights Committee were to take the same approach, they would ask to go to Europe. They could ask to talk to human rights individuals in Europe, or in the Middle East for that matter. If the Human Rights Committee can do their work here, then the Defence and Security Committee can do its work here. That is why, I reiterate, we have tied the two matters together.

• (1920)

It was for that reason alone that this issue has carried out to the extent it has. With the permission of honourable senators, if Senator Kenny could respond verbally with a figure of his anticipated budget to the end of this fiscal year, I would appreciate it.

The Hon. the Speaker pro tempore: Is leave granted to allow the Honourable Senator Kenny to respond?

[Translation]

The Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I do not object to our allowing Senator Kenny to answer Senator Stratton's question. However, the question that the Honourable Senator Stratton asked does not come under the subject of Item No. 6 of the Orders of the Day, which we are considering and which deals with the issue of changing the name of the Committee on Defence and Security.

I understand Senator Stratton's concerns. He brought this issue up when we were discussing the motion on additional funding for this committee. I find myself in a difficult situation, because though consent was given, this consent was given for a different question than that which is now before us.

[English]

Hon. Marcel Prud'homme: The rules allow chairmen of committees to be asked questions. Furthermore, I will learn the rules with the new senators, who will learn with me, because it goes so fast. There are 15 new senators, and we will learn together. I am of the opinion that asking questions of a senator could have implications. There may be reasons for the committee changing its name, and these reasons may have some financial implications. We do not know. We will only know if we give the chairman permission to answer that question. Perhaps it is totally irrelevant, but I cannot relate that by an act of intellectual gesture. I could relate that directly from Senator Stratton to Senator Kenny, our able chairman.

The Hon. the Speaker pro tempore: Is leave granted to allow Senator Kenny to answer the question?

Hon. Eymard G. Corbin: It is obvious, as he admitted at the beginning of the last vote, that Senator Prud'homme was not here for the discussion of the previous matter on which we had a vote. I tend to agree with Senator Robichaud that the question is totally remote to the matter now at hand, namely, the changing of the name of a committee.

We dealt with the other matter earlier, and the question by my honourable colleague across the way does not have its place in the study of this current matter at all. It is totally out of order.

Hon. Tommy Banks: Honourable senators, further to that point, the question that Honourable Senator Stratton has asked has to do with a debate on the matter of the budget. This house just took a standing vote to adjourn the debate on that question. We must not begin to debate it again.

The Hon. the Speaker pro tempore: Let us resume debate on Order No. 6, the motion to change of the name of the committee.

Is the house ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

CONDEMNATION OF TERRORISM

MOTION—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Pépin:

That the Senate:

- Considering Resolutions 1368 and 1373 adopted by the Security Council of the United Nations on September 12, and September 28, supporting initiatives to eradicate international terrorism that threaten peace, security, human rights and freedoms and the political order of the free and democratic society;

- Considering that in its special session of October 2, 2001, the North Atlantic Council determined that "the attack against the United States on 11 September was directed from abroad and shall therefore be regarded as an action covered by Article 5 of the Washington Treaty, which states that an armed attack on one or more of the Allies in Europe or North America shall be considered an attack against them all";

- Condemn unequivocally the use of violence and terrorism to overthrow the democratic order and the elimination of human rights and freedoms;

- Support the decision of the Government calling upon the Canadian Armed Forces on active service to join the international campaign against the perpetrators of the terrorist attacks of September 11;

- Express its preoccupation that humanitarian support be given to the civilians affected by that campaign;

- Express its urgent concern that the authors and supporters of those terrorists attacks are brought to justice accordingly;

- Express its strong belief that it is through negotiation and peace settlement that legitimate claims of the States should be dealt with in the International Order; and

That upon adoption of this motion, the said motion should be deemed referred to the Standing Senate Committees on Foreign Affairs and Defence and Security for study and report back to the Chamber in the next 30 days.—(Honourable Senator Stratton).

Hon. B. Alasdair Graham: Honourable senators, with the permission of Senator Stratton, I will speak on this motion. In supporting it, I begin with the obvious. We are all becoming more aware that the war against terrorism is a complex, lengthy and multi-faceted war. We witness daily the most graphic ongoing military application of air power in Afghanistan. Canadians are a peace-loving people whose proud international reputation has been built on a courageous global engagement out of proportion to the size of our economy and our population. No matter what our personal views of this war, most of us lament the deaths of innocents in a country to which the fates have dealt a cruel legacy.

Michael Ignatieff reflected the voice of Canada very well in his new book, *Virtual War*. Now a distinguished professor of human rights at Harvard University, the Toronto-born Ignatieff wrote that central commitments of the world since Auschwitz, since the Universal Declaration of Human Rights, would mean nothing if we had not been prepared to use force in their defence. "War must always be the very last instrument of policy," he said, "but when the sword is raised, it must be used to strike decisively, for only decisive force yields results which can justify its use in the first place."

Honourable senators, the vicious assaults we witnessed against the United States resulted in the deaths of over 5,000 people from 80 countries. The World Trade Center was truly about world trade, and the assaults were meant to silence the dynamic voice of trade, to decimate the normalcy of business, to cripple the international community with fear. Those actions were aimed at the very structure of human values around which the international community is organized. They were carried out by small bands of criminals who seek to undermine civilization itself.

I have often thought of the speech of Sir Winston Churchill to the Canadian Parliament in the dark days of December 1941 as he recounted the words of the disbelievers who had said during the Nazi blitz: "In three weeks, England will have her neck wrung like a chicken." All honourable senators will recall the wonderful remonstrance heard in the other place at that time — some chicken, some neck.

All of us are looking for the road back to normalcy, to the realization of the broad net of meaningfulness and coherence, which is fundamental to civilized life and society as we have been privileged to know it.

In supporting this motion, I reflected on the idealistic, yet pragmatic, multilateralists who carved out our foreign policy and nurtured the rich, enduring respect with which our country is regarded internationally. Lester B. Pearson and other committed internationalists of his time mapped out the future of a truly global commitment for Canada in the early post-war years. The fine Canadian diplomat, John Holmes, once wrote that "we are a regional power without a region. In fact our region is the world." Our remarkable commitment to the United Nations stems from that universal sense of Canada's potential and responsibility for

peace making, that peace was a long journey and that there are no shortcuts to freedom.

In the many countries in which I have supported democratic development, I have been often privileged and proud to be able to witness the work of our peacekeepers. These Canadians wearing the blue berets became symbols of hope in countries where hope had been forgotten, where terror and ethnic violence were commonplace, where all semblance of organized life and society had disappeared.

Yes, honourable senators, our region is the world and our international experience is the greatest currency we now hold in what will be a lengthy struggle to eradicate terrorism across the planet.

• (1930)

As we debate the motion before us, and reflect upon the content of UN Resolutions 1368 and 1373, adopted by the Security Council, we recall that Canada has already ratified 10 of the 12 anti-terrorism conventions outlined by Resolution 1373. Canada has now undertaken to ratify the remaining two conventions — taking a solid leadership role within the global community on this issue as it already has on the ratification of the International Criminal Court.

Our drafting and international legal expertise must be placed at the full service of the United Nations, particularly with regard to the Secretary-General's call for a comprehensive convention on international terrorism. As Nobel Prize winning Kofi Annan said so well in his address to the General Assembly on Terrorism on October 1 last:

We are in a moral struggle to fight an evil that is anathema to all faiths. Every state and every people has a part to play.

Honourable senators, I might respectfully submit that Canada had already taken the lead in both sponsoring and ratifying treaties controlling and prohibiting weapons of mass destruction. I know we will work very actively and effectively on the diplomatic front in the days ahead to promote closer international cooperation in the long struggle that lies before us — the struggle to eradicate the almost unthinkable scourge of possible future terrorist attacks carried out with such weapons.

The United Nations has a legitimacy that no other political body can bestow in our time. The currency in which it deals is called impartiality. Canada must do all it can in the coming months to ensure that that currency is not devalued, to ensure that tragic Afghanistan is empowered by the will of its own people, not by outsiders imposing their own favoured personalities and groups.

However, in the long term, no matter how the next few months play out, we must remember that there are no sweeping 180-degree turns in the continuing war against terror. In the dark hours of the sombre days that have passed, and the dangerous moments that lie ahead, the faltering short steps may not seem to be enough.

In these times of crisis, we may sense only the danger. We may forget where the opportunity lies. Yet, for all of us, opportunity is close at hand. For each of us, it may appear in different shapes and forms.

For me, they have been clearly etched over the past memorable, moving and fascinating week. I was privileged to be a part, along with Senator Johnson, of the state visit to Germany led by Her Excellency the Governor General of Canada.

While in ordinary times, her great vigour, personal courage, charm and intellect would have an extraordinary impact, in these difficult times the remarkable presence and strength of Her Excellency Madame Clarkson was magnified many times over.

"Our trip is an opportunity to prove the solidarity and the similarity of our two countries in upholding democratic values," the Governor General said at a state dinner our delegation attended, which was hosted by Johannes Rau, the President of Germany; and so it was. All of us, whether politicians or artists or business people, reflected on the meaningfulness of democracy and freedom in our own ways, sharing conversations with German citizens about the future, about freedom, about business, about the environment, about the strength of federalism, about the strength of multiculturalism, about normalcy and structures and the important road to peace.

We shared conversations that the terrorists hoped would never take place, would be silenced. We planned even closer ties between our nations and our peoples that put a lie to fear. We all, in our own ways, travelled the same values highway with our friends and allies — a country from which close to 10 per cent of Canadians claim ancestral origins.

I am proud to say that Canada was the birthplace of a process which led to German reunification. It was on February 13, 1990, during the Open Skies Conference here in Ottawa that an agreement was reached between the foreign ministers of the Free Republic of Germany, the FRG, the then German Democratic Republic, the GDR, the then Union of Soviet Socialist Republic, the U.S.S.R., France, the United Kingdom and the United States on the start of the historic "Two-Plus-Four" talks which led to the fulfilment of Germany's dream to have the country reunited after more than 40 years of division.

To express his gratitude to the Canadian people who had supported the German people in these difficult years, an original piece of the Berlin Wall with the plaque commemorating the Ottawa agreement was unveiled on September 27, 1991, by the former deputy chancellor of the Federal Republic of Germany, foreign minister Hans Dietrich Genscher. That piece of the Berlin Wall, by the way, can be seen in the lobby of the Ottawa Conference Centre.

Now we must apply the full spirit of the partnership we have been privileged to share over the decades to the new scourge of terrorism.

Honourable senators, as I spoke with Germans of all backgrounds and professions, I realized that there would never be

any surrender of our way of life to fear and apprehension. As I approached the wonderful locale of the Brandenburg Gate in Berlin, I thought about hope and reconciliation conquering the forces of division and darkness. I thought about the remarkable spirit and work ethic of German people as they set about the enormous challenges of reunification. I thought about the fact that Germany has shown the world many lessons in what is possible with commitment, with determination, with resolve.

I remembered visiting East Berlin in the spring of 1990, shortly after the wall came down, in the company of distinguished colleagues who had been invited to East Germany by the Federation of Protestant Churches. The purpose of those meetings was to meet with the parties contesting the upcoming elections and to speak with them about democracy. At the time, I took my own chunk from the wall with a sledgehammer. I surveyed the names of all those who had died in vain attempts to escape to the West. Among them was the name of Chris Gueffroy, an East German waiter who had been shot as he climbed the wall in February of 1989, hence becoming the last sad statistic in the annals of over 200 dead.

In the wonderful moments of the last week, I returned to the little plaque that was still there in his honour. I thought about courage in the face of brutality and the price we sometimes must pay for freedom. I thought about our children and the sad yet resolute faces of all those who watched their fathers and their mothers set sail with Operation Apollo two weeks ago in Halifax Harbour.

• (1940)

As I watched this sombre yet in many ways beautiful departure — it was after all another annal in the miracle of the power of humanity — I thought about the ancient Haida expression that has been part of a belief system for many thousands of years: We do not inherit this land from our ancestors; we borrow it from our children. In the borrowing, we try to build a better world. In the borrowing, we try to nurture free, inclusive, civil societies where no man or woman or child is scorned because of race or ethnic origin or religion. In the borrowing, we try to teach that God may be known by many different names and many different traditions but that God is identified by one consistent feeling, and that is love.

Today, when I think of the miracle of opportunity, I know that I do not have to look very far to find it. It lies in the hearts and the minds and the souls of Canadians.

Honourable senators, the miracle of opportunity and the power of the possible is us. Some chicken, some neck.

Hon. Senators: Hear, hear!

[Translation]

Hon. Marcel Prud'homme: Honourable senators, I have a question for Senator Graham, who spoke with such passion in support of Senator Grafstein's motion.

[English]

As you know, I supported you as President of the Liberal Party of Canada many years ago. I was a Liberal organizer in Quebec where we won very strongly. My question is, simply: Would you tell me your definition of terrorism?

The Hon. the Speaker *pro tempore*: Honourable senators, I regret to advise the time for the honourable senator's speech and questions have expired. Is leave granted to continue?

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, it is agreed that Senator Graham may have leave to respond.

Senator Graham: Honourable senators, I am sure there are people much more qualified to answer that question than myself, but the best evidence I could offer would be what happened in New York City and in Washington. If people are asking for definitions, I would say those are examples.

Senator Prud'homme: Those are terrorist acts, but what is terrorism?

On motion of Senator Stratton, debate adjourned.

[Translation]

CABLE PUBLIC AFFAIRS CHANNEL

CLOSED CAPTIONING SERVICE—INQUIRY—
DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Gauthier calling the attention of the Senate to the current negotiations on the renewal of the broadcasting agreement between the Senate and CPAC (the Cable Public Affairs Channel) to ensure that they include the closed-captioning of parliamentary debates authorized for television, and that the renewal of this agreement reflect the commitments made by CPAC on services for the hearing impaired.

Hon. Eymard G. Corbin: Honourable senators, this has been made superfluous by the fact that Motion No. 68 by Senator Jean-Robert Gauthier addresses the same matter. I am pleased, moreover, to note the progress that has been made by the Standing Committee on Internal Economy, Budgets and Administration, as reported to us by Senator Kroft in a debate here a week or two ago. In our opinion, the Standing Committee on Internal Economy, Budgets and Administration seems to be addressing this matter with all due diligence.

On motion by Senator Prud'homme, debate adjourned.

LA FÊTE NATIONALE DES ACADIENS ET DES ACADIENNES

DAY OF RECOGNITION—MOTION—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Losier-Cool, seconded by the Honourable Senator Léger:

That the Senate of Canada recommends that the Government of Canada recognize the date of August 15th as *Fête nationale des Acadiens et Acadiennes*, given the Acadian people's economic, cultural and social contribution to Canada.

Hon. Gerald J. Comeau: Honourable senators, I did not want to let slip this opportunity to proudly voice my support of the motion by Senator Losier-Cool, and I invite all senators to follow suit. The Acadians have not had any attention in recent years and so we are obliged to remind the federal authorities of their existence. Evidence of this lack of attention is the fact that to date there has been no recognition of one of our important symbols, the Fête nationale de l'Acadie.

By definition, a nation is a community of persons who share the same culture, traditions, language, history, religion and sometimes — but not necessarily — the same land. An Acadian remains an Acadian in his mind and heart, regardless of where he lives. This sense of belonging is not bound to a material thing such as the land.

An Acadian maintains his sense of belonging and identity whether he lives in Nova Scotia, New Brunswick, Louisiana or even here in Ottawa. We do not have to form a government on a specific territory to preserve our nationality. This is why you will notice that the most vibrant Acadians are often the strongest advocates of our Canadian nation.

As a nation, Acadians have their own symbols, including their national anthem, the *Ave Maris Stella*, and their national flag, the starred tricolour. They have their Congrès mondial acadien, sacred sites such as Grand Pré and historic events such as the arrival of the first Europeans in 1604, the deportation in 1755, the 1755-63 exile, and their national holiday, the Feast of the Assumption, which is celebrated on August 15.

• (1950)

We have our artists, authors, poets, songwriters, great historical visionaries and heroes of the resistance, such as Beausoleil Broussard. We also have our politicians, Louis J. Robichaud and now Bernard Lord, our actors such as Senator Viola Léger, our graduate schools, namely the Université de Moncton and Université Sainte-Anne where, last weekend, I attended the ceremony held on the appointment of our new rector, André Roberge.

What is the origin of Acadia's national holiday? The first Convention nationale acadienne was held in 1881, in Memramcook, in Southeastern New Brunswick, which is the hometown of the Right Honourable Roméo LeBlanc. It is at that time that the 5,000 Acadian delegates chose August 15 as Acadia's national holiday.

Monsignor Marcel-François Richard addressed the delegates and told them that he wanted:

"...a distinct holiday for our people, since our history is different from that of Quebecers".

Three years later, in 1884, the delegates to the second Convention nationale, held in Miscouche, Prince Edward Island, adopted the Acadian flag and they also chose the *Ave Maris Stella* as their national anthem.

It is important to encourage Acadians to be proud of their heritage. In order to do this, Canadians, through their government, could contribute by recognizing our symbols. The federal government could start by examining its inaction on this issue for some years now.

Quite recently, in this chamber, I gave examples of the reduction in services in both official languages in Acadian and minority communities in Canada, and I will not repeat them.

There are other examples of oversights. Take the calendar of holidays published by Canadian Heritage, which does not include the Acadians' national holiday; Acadian federal parliamentarians from Nova Scotia were excluded from the Sommet de la Francophonie activities in New Brunswick last year; also, Statistics Canada's census questionnaire does not include Acadian nationality. The list of ethnic origins includes 25 ethnic groups including Chileans, Somali and Jamaicans, but not Acadians. In addition, let us not forget the government's comments in the last Speech from the Throne with respect to renewing its commitment toward viable official language minority communities, without explaining when a community is no longer considered viable.

Acknowledging Acadians would compensate for the ignorance of certain politicians — such as Reformers — who want to rewrite the history of Acadia, having recently stated in the other place that Acadians were simply returned to France during the deportation. They talk as though the Acadians, who had settled in the new world a hundred years before the deportation, were simply French citizens with expired visas who were here visiting.

Today the descendants of the first Acadian settlers number in the millions. Quebec alone has over one million of them. Another million are to be found in the New England states and Louisiana, not to mention the hundreds of thousands of Acadians throughout France. In contemporary Acadia, there are over 300,000 of them, still living on land cleared after Champlain's arrival in 1604.

Those with an interest in Acadia are cordially invited to come to the third Congrès mondial acadien in Nova Scotia in 2004 and meet Acadians from the world over.

Come share in our culture, songs, dances and warm hospitality and, on August 15, come to our national holiday for the flag raising. You will not be sorry.

On motion of Senator Robichaud, for Senator Léger, debate adjourned.

[English]

ASIAN HERITAGE

MOTION TO DECLARE MAY AS MONTH OF RECOGNITION—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Poy, seconded by the Honourable Senator Carney, P.C.:

That May be recognized as Asian Heritage Month, given the important contributions of Asian Canadians to the settlement, growth and development of Canada, the diversity of the Asian community, and its present significance to this country.—(*Honourable Senator Kinsella*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, like all honourable senators in the chamber, I am mindful of the hour, but I do wish to rise and speak to this motion. I rise to lend my support to the motion of Senators Poy and Carney that the month of May be recognized as Asian Heritage Month.

Honourable senators, the great lady on the throne at the time of our founding as a nation was, as honourable senators know, Queen Victoria, whose name permits the reflection that, since 1867, the victory of Canada has in many ways been our success in building a cosmopolitan society, a society which values the contribution and participation of all peoples in our country's journey of nation building.

The full and equal participation of all Canadians in the life our nation is at the heart of our vibrant and vital body politic. This, honourable senators, is of the essence of Canadian citizenship — a citizenship which, in our land, is the symbol of everything that brings us together: pride, shared values, common rights and attendant responsibilities as citizens of Canada. Having shared values does not, however, mean that we are all cast in the same mould. We are all equal, but we are not all the same.

[Translation]

Honourable senators, the fact of having shared values does not mean we are all cast in the same mould. We are all equal, but not all alike.

[English]

Our diversity, honourable senators, is an asset. It is a source of enrichment.

[Translation]

In order to truly benefit from our diversity, we must first and most importantly all try to better understand and respect each other. The development of our society, as we want it, is based on such basic values.

[English]

It is important, therefore, that we should not shy away from any effort to celebrate the various elements of our rich society such as that which is provided for by the present proposal to mark the many contributions of the Canadian Asian community. We ought not forget the challenges and obstacles that narrowness of orientation and prejudicial action forced Canadians of Asian background to face throughout our history. The Chinese head tax and the "*Komagata Maru*" incident are but two unfortunate examples.

Honourable senators, the courage of Prime Minister Mulroney to bring about the Japanese redress is a happier milestone, as was his government's 1988 Canadian Multiculturalism Act, a measure which was all about our Canadian citizenship being inclusive and not exclusive.

[Translation]

Honourable senators, multiculturalism is therefore no more an end in itself than obtaining a certificate of citizenship is. Both are ways of feeling more like a full member of Canadian society.

[English]

In supporting this motion, I do wish, honourable senators, to underscore a caveat. It is easy to proclaim a month, a week or a day in dedication to Asian heritage or the heritage of any of Canada's peoples. The Web site for Heritage Canada is full of such observances. A proclamation of the month of May or any month as Asian Heritage Month should be coupled with the resources in order to use the proclamation as a springboard to educate Canada's youth as to the history and contributions of Canadians of Asian origin, especially in those regions of our country that have not been the beneficiaries of levels of immigration from Asia.

We should also look at the decades of efforts of other communities such as Canada's Black community in using Black History Month in educating all Canadian youth on the contribution of the Black Canadian community to Canadian society as an example.

I would hope, therefore, that such a proclamation has at its core an intention to educate Canada's youth in such a manner. I note that the motion before us is for the month of May, which is salutary from an education standpoint, for the schools are still in session. The children are in attendance at our schools during that month.

I conclude by reiterating my support for this motion. Asian Canadians have been an integral part of Canada's history and multicultural fabric. With that, honourable senators, I encourage support for this motion.

On motion of Senator Taylor, debate adjourned.

[Translation]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

MOTION TO AUTHORIZE COMMITTEE TO STUDY RENEWAL OF BROADCASTING CONTRACT WITH CPAC—ORDER STANDS

On the Order:

That the Standing Committee on Internal Economy, Budgets and Administration be authorized to examine and report on the renewal of the television broadcasting agreement between the Senate and CPAC (the Cable Public Affairs Channel), so that it includes the subtitling of parliamentary debates authorized on television and that the renewal of this agreement follows up on CPAC's commitments concerning services to the hearing impaired.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I seek consent to have this motion, which stands in the name of Senator Gauthier and which has not yet been debated, remain where it stands on the Order Paper until tomorrow so that the senator can move it, because he has had to leave for important meetings and asked me whether he might be granted this privilege.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Order stands.

The Senate adjourned until Thursday, November 1, 2001, at 1:30 p.m.

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CANADA

Debates of the Senate

1st SESSION

• 37th PARLIAMENT

• VOLUME 139

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OFFICIAL REPORT
(HANSARD)

Thursday, November 1, 2001

THE HONOURABLE DAN HAYS
SPEAKER

This issue contains the latest listing of Senators, Officers of the Senate, the Ministry, and Senators serving on Standing, Special and Joint Committees.



CONTENTS

(Daily index of proceedings appears at back of this issue.)

OFFICIAL REPORT

CORRECTION

Hon. Sharon Carstairs (Leader of the Government):
Honourable senators, I have a correction that I would like to make to page 1572 of the *Debates of the Senate*, where the number 80,000 appears. It should in fact read 8,700.

The Hon. the Speaker: Honourable senators, is leave granted to make this correction to the record?

Hon. Senators: Agreed.

THE SENATE

Thursday, November 1, 2001

The Senate met at 1:30 p.m., the Speaker in the Chair.

[Translation]

Prayers.

We do not choose to become refugees. It was not my choice.

[English]

SENATORS' STATEMENTS

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw to your attention the presence in the gallery of Gunnar Johan Stalsett, Bishop of Oslo and Deputy Chairman of the Norwegian Nobel Committee. He is a guest of Senator Wilson.

On behalf of all senators, I welcome you to the Senate of Canada.

We did not chose to leave our dreams and aspirations behind in Uganda — Idi Amin did. We did not choose to leave our home — Idi Amin did. We did not choose to become refugees — Idi Amin did. All of these choices were made for us and thrust upon us. I will continue with this at another time.

Honourable senators, the next time we speak of refugees in this chamber or elsewhere, we will remember that those who get themselves into trouble with the law and threaten our security are a minority. Perhaps we can remember that most refugees are hard-working people who seek nothing more than to rebuild their lives and our country, Canada. I hope we can remember the importance of that distinction.

Hon. Senators: Hear, hear!

IMMIGRATION AND REFUGEE PROTECTION BILL

EXPLANATION OF SUPPORT

Hon. Mobina S. B. Jaffer: Honourable senators, yesterday the chamber passed Bill C-11, the act respecting immigration to Canada. Some senators may have wondered why I would rise to support this bill.

Honourable senators, my greatest fear is that Canadians will lose faith in the security of their immigration system, say that "enough is enough" and close the doors that have stood open to people like me and my family, offering hope and refuge for so long. If Canada's doors had been closed to my family, we may not have survived.

Honourable senators, since being sworn in just over a month ago, I have been greeted warmly by all of you. My arrival here, however, has also come on the heels of the terrible events of September 11. I have heard my fellow Canadians and my colleagues in this chamber say that now is the time to question the way we do things. I have heard them say that a new era of security is upon us. I have heard refugees unfairly judged as beggars, thieves and terrorists. The horrid events of September 11 have nothing to do with our Canadian Immigration and Refugee Board policy.

Honourable senators, my family and I did not choose to leave my home country of Uganda and come here with nothing. When I came to Canada with nothing but my newborn baby in my arms and a husband who had escaped detention by the Ugandan army, it was not because I chose to do so.

[Translation]

ROUTINE PROCEEDINGS

THE ESTIMATES, 2001-02

SUPPLEMENTARY ESTIMATES (A) TABLED

Hon. Fernand Robichaud (Deputy Leader of the Government) tabled Supplementary Estimates (A) for the fiscal year ending March 31, 2002.

[English]

BUSINESS OF THE SENATE

Hon. Joyce Fairbairn: Honourable senators, I wish to advise the Senate that later this day, I intend to ask for leave to revert to Presentation of Reports from Standing or Special Committees to enable me to table the first report of the Special Senate Committee on the Subject-Matter of Bill C-36, the Anti-terrorism Act. The committee and myself did not want to table the report until copies were available for all senators, as will be the case, hopefully, in a short period of time.

The Hon. The Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

[Translation]

THE ESTIMATES, 2001-02

NOTICE OF MOTION TO REFER SUPPLEMENTARY ESTIMATES (A) TO NATIONAL FINANCE COMMITTEE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I give notice that on Tuesday next, November 6, 2001, I will move:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (A) for the fiscal year ending March 31, 2002.

[English]

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO REVIEW REFERENDUM REGULATION PROPOSED BY CHIEF ELECTORAL OFFICER

Hon. Lorna Milne: Honourable senators, I give notice that on Tuesday, November 6, 2001, I shall move:

That the Standing Senate Committee on Legal and Constitutional Affairs be empowered to review the regulation proposed by the Chief Electoral Officer tabled in the Senate on October 16, 2001, and that the committee report to the Senate no later than November 29, 2001.

• (1340)

ENDING CYCLE OF VIOLENCE IN MIDDLE EAST

INQUIRY

Hon. Pierre De Bané: Honourable senators, I give notice that on Wednesday next, November 7, 2001, I will call the attention of the Senate to my recommendation for ending the atrocious cycle of violence raging now in the Middle East.

QUESTION PERIOD

FINANCE

DEVALUATION OF DOLLAR

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. Of course, the headline in today's newspaper, and particularly in the last few days, is about our falling dollar. From a post-September 11 peak of 69.19 cents against the U.S. greenback on October 15, the Canadian dollar fell to a record

close of 62.94 yesterday and was trading at 62.75 when markets opened this morning. It has never been as low. The immediate trigger for the most recent drop is bad economic news in the United States, but the fact remains that our dollar has lost four cents since early February, when it traded at 66.95 cents.

The question in the minds of Canadians when the dollar hits a record low is what is the government policy with respect to the falling dollar? Will we continue to watch the dollar fall as the economy falls? Is it an attempt by the government to tie itself into a move to the U.S. dollar? Just what is going on?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the policy that has existed for a considerable length of time in Canada is one of a floating currency, a currency determined by market values. That does not and has not changed, as I indicated, for a very long period of time. We know that there are advantages and disadvantages. The honourable senator knows that well.

This afternoon, however, I should like to point out that in relation to other significant currencies our dollar has fallen far less. For example, if one considers the Japanese yen it has fallen by 6.55 per cent in the past year; the Swedish krona has fallen by 11.37 per cent; the Australian dollar has fallen by 9.86 per cent; and the Canadian dollar has fallen by 5.59 per cent. That is a significant drop but with respect to other world currencies we are still doing very well.

Senator Stratton: Honourable senators, I appreciate that very much. The concern I have, however, is long term. The concern has to be long term. We know that a low dollar helps our exports in the near term. However, it puts our productivity in the toilet. It makes us second rate because we do not have to be competitive. We rely on a low dollar to sell and export our goods elsewhere. That is the critical issue and the government is ignoring that issue at its peril.

If the dollar ever turns around, and hopefully one day it will, how does the Leader of the Government in the Senate expect businesses to adapt and be competitive in the future — and I am talking the long-term future?

Senator Carstairs: Honourable senators, it is clear that Canadian products are competitive on the world market and have been competitive for a very long time. The reality is that many currencies have been taking a hit. For example, since January of 2000, the United Kingdom pound has dropped 11 per cent in relative terms to the American dollar. The American dollar is very strong. The rest of us are in a situation in which we are competing with the American dollar. Honourable senators, the Canadian economy in other respects is not only performing well, but is outperforming the United States.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, the government's argument seems to be that since our currency is not falling against the U.S. dollar as fast as other currencies we are doing well. That is a specious argument. How far will the government let the Canadian dollar fall before it starts giving the dollar some support?

Senator Carstairs: Honourable senators, to support the Canadian dollar would probably require significant increases in interest rates in this country. I, for one, do not think that is the way to go.

Senator Lynch-Staunton: The answer, then, is that we will let the dollar fall to a value that can be equated with that of certain Third World countries, which means one in which the rest of the world has no confidence.

Senator Carstairs: With the greatest of respect, honourable senators, the value of the dollars of Third World countries bear no relationship to the strength of the Canadian dollar.

Senator Lynch-Staunton: The Canadian dollar has no strength. It has fallen to a historical low. The government does not seem to appreciate that. The government says that it will help our exports, that the Canadian economy is sound, that it is all relative. The strength of the currency of a country is an indication of the strength of that country itself. The weaker our dollar gets, the weaker the perception of our economy. If the government cannot get that one straight then all I can think of is that our dollar will get even weaker.

Senator Carstairs: Honourable senators, with the greatest respect to the Leader of the Opposition, our currency does not work in a global marketplace all by itself. It exists along with the value of currencies in many other countries. If the honourable senator thinks our economy is down the toilet, and I significantly disagree because it is not the fact, then what does he have to say about the Australian currency? What does he have to say about the euro, the yen or the UK pound? Are all those economies in the toilet, too?

Hon. Pat Carney: Honourable senators, my question is supplementary to Senator Stratton's. The honourable senator has pointed out that the low Canadian dollar is good for Canadian exports because it assists them through the lower value of the dollar. That is one side of the currency coin. The other side of the currency coin is that a lower dollar substantially increases the cost of our imports from the United States, and those imports are a major component of Canada's manufacturing industry, particularly in Central Canada. Therefore, the policy that is being followed with regard to the lower dollar is highly inflationary in the time of a stagnant economy.

• (1350)

Would the Leader of the Government in the Senate explain why the government would follow this policy that is increasing the cost of our imports, which increases the cost to Canadian manufacturers, which increases the cost to Canadian consumers and is highly inflationary in a stagnant economy?

Senator Carstairs: Honourable senators, Senator Carney is correct when she says that such a policy reduces the ability of Canadians to purchase American products at the prices that they were purchasing those products for earlier. The policy helps our exports and hurts our imports; there is no question about that. One should look at our balance of trade. We are an exporting

nation more so than an importing one. As to the honourable senator's comment about inflation, inflation is very low in Canada at present. This has not caused what the honourable senator has referred to as "the spectre of massive inflationary pressures." Those pressures are not there.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the field of high finance is another field in which I do not have great understanding. Let me put my question to the Leader of the Government in the Senate this way: With the fall of the Canadian dollar, will it not cost us more to buy oranges and other citrus fruits this winter in Canada?

Senator Carstairs: Honourable senators, I believe I answered that question when I responded that Senator Carney was absolutely correct in that our imports will cost more, our exports will cost less, and that will be beneficial. If we are importing oranges, those oranges will be more expensive as a result of a lower dollar. That, Senator Kinsella, is pretty elementary. I must tell the honourable senator that most of my high school students would have known the answer to that question.

Senator Stratton: Honourable senators, the interesting parallel to what is happening with the Canadian dollar is the conjecture about the U.S. dollar. Europe has gone to a common currency in the push for North America to go to a common currency as well, meaning Mexico, the United States and Canada, except that we would not have a continental North American currency, we would have the U.S. dollar as our currency.

Sherry Cooper, the Chief Economist for Nesbitt Burns said today that our falling dollar is pushing us more and more toward adopting the U.S. dollar. Is the government convinced that inevitably we will be pushed into adopting the U.S. dollar, or will the government stand as a stalwart of sovereignty and say, "We will have a Canadian dollar even if it is 25 cents or 50 cents"?

Senator Carstairs: Let me begin with the preamble to the honourable senator's supplementary question. The Europeans have gone to a common currency. I believe the honourable senator says that perhaps that is something we in Canada should be considering.

To set the record straight, the euro currency is doing far worse than the Canadian currency. I would not make that recommendation to go to a common currency. The Minister of Finance has been clear and the Canadian people have been clear; they do not want a common currency with the United States.

Senator Stratton: I understand that may be the case at present. However, if our dollar continues to fall, the economic reality is that we may not have a choice. That concern I think is starting to grow in the minds of Canadians.

Senator Carstairs: Honourable senators, that concern may be growing in the mind of Senator Stratton; it is not growing in the minds of those sitting on this side of the chamber.

[Translation]

Hon. Roch Bolduc: Honourable senators, my question is for the leader of the Government in the Senate. Did the minister say that the effect of the low Canadian dollar is to raise the price of our exports? I would also like to know what types of imports are concerned.

[English]

Senator Carstairs: Honourable senators, that is an extraordinarily generous question, in the sense that I could spend the rest of Question Period listing all of the things that we could import. However, I shall not do that.

Clearly, imports from the United States, because that is the currency we have been talking about vis-à-vis how ours has fallen, will be more expensive. Whereas, for example, imports from European countries, Argentina, whose currency is in really bad shape, Brazil or Australia will be to our benefit.

[Translation]

Senator Bolduc: It must be realized that the products we import are in large part high-tech products to improve the productivity of Canadian industry. As a result, each time that happens, Canadian productivity diminishes. It is a vicious circle. The more it costs to import high-tech products, the closer we come to a system in which Canada's relative productivity drops in relation to that of the U.S. What is the government doing about this?

[English]

Senator Carstairs: Honourable senators, many of our high-tech imports come from the United States. Therefore, they would be affected by these measures. However, we also import products from the high-tech industry in Japan, and because we are actually doing better against the Japanese yen, our imports are cheaper.

INTERNATIONAL TRADE

UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT

Hon. Pat Carney: Honourable senators, the U.S. is currently bludgeoning Canadian lumber producers by imposing an anti-dumping duty averaging about 12.57 per cent on top of a 19.3 per cent countervailing duty already in place. This is causing horrendous economic hardship. This is a \$10-billion a year industry nationally; and a \$5-billion industry in British Columbia. About 30,000 workers' jobs are being or have been affected. This duty is the direct result of the Canadian government's stand on trying to accommodate the Americans rather than negotiating with them. The Canadian government has

chosen to follow a process that has led to these duties being imposed rather than one of negotiating with the Americans.

What does the government plan to do to alleviate the pain being imposed on the provinces and the workers? How does the government propose to make the Americans pay?

• (1400)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the Honourable Senator Carney is well aware, the American government has accused six Canadian companies of anti-dumping activities. The duty amounts, on average, to 12.58 per cent.

The minister responsible, the Honourable Pierre Pettigrew, has been clear. He has indicated that the duty is totally unjustified, that it is a punitive action, and that it will not only add to the difficulties of our lumber producers but will also have a severe impact in the United States on their new housing construction. As the honourable senator knows full well, there is a battle going on in the United States between the lumber-producing states and those states that do not produce lumber but that have great need for that lumber because of the construction activity taking place.

I will tell honourable senators that there is a further meeting between Minister Pettigrew and his American counterparts during the week of November 12. The government is continuing on this file with great vigour. We will continue to lay our case not only before the American government but also with respect to other international opportunities.

Senator Carney: Honourable senators, in response to the leader's answer, the Americans are following their due process. It is not understood in this country that the Americans are following a legislative process set down in the U.S. Minister Pettigrew's "jawboning" of the Americans will not work.

In exactly the same circumstances, the Conservative government imposed an export tax at the border, which kept the money in Canada and kept the mills open. I have been told that this approach is favoured by many British Columbia companies. Why will this government not keep the money in Canada and keep the mills open by imposing an export tax at the border?

Senator Carstairs: Because we believe in free trade.

Some Hon. Senators: Oh, oh!

Senator Carney: I must respond to that, honourable senators. That answer is incorrect.

Senator Lynch-Staunton: So do the Americans!

Senator Carney: That is an incorrect answer and the minister knows it. If she wants to infer that free trade results in anti-dumping duties and countervailing duties approaching nearly 40 per cent, then the minister should go back and check her briefing book.

Senator Carstairs: With the greatest of respect, Honourable Senator Carney, this issue has been before tribunals over and over and over again, and Canada has won every single time. It is Canada that plays by the rules.

Senator Lynch-Staunton: You just lost! You lost yesterday!

[Translation]

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

November 1, 2001

Mr. Speaker,

I have the honour to inform you that the Honourable Jack Major, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 1st day of November, 2001, at 4:30 p.m., for the purpose of giving Royal Assent to certain bills.

Yours sincerely,

Michèle Lévesque

Deputy Secretary, Policy, Program and Protocol

The Honourable
The Speaker of the Senate
Ottawa

[English]

ORDERS OF THE DAY

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 2001

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Poulin, seconded by the Honourable Senator Poy, for the third reading of Bill S-31, to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, those of us who were here at the time will recall that we had a similar bill two or three years ago in which one of the countries affected by a tax convention treaty was Uzbekistan. Some of us objected to the fact that Canada, by signing a tax convention with it would, in effect, sanction that country's policies of ignoring human rights almost completely.

This intervention did not lead to the defeat of the bill, but it did allow a good discussion in front of the Standing Senate Committee on Foreign Affairs on Canada's relations with those countries that have a human rights record with which we disagree.

It is hard to define a policy that strives to balance trade and human rights, but it cannot be too hard to realize that certain countries have a human rights record such that we should not be dealing with them or that our dealings with them should be extremely limited.

As honourable senators know, the Uzbeks have suddenly become our allies in the war against terrorism. Despite this, I want to reinforce my point by going away from the bill itself for a moment. An article in the *New York Times* of two days ago states that in the short term, the Americans are concerned that cooperation with Uzbekistan lends legitimacy to the republic's restrictions on faith as well as a judicial system that tries people in secret and security forces that torture suspects and maintain inhumane jails.

The point at the time was: What is Canada doing negotiating a tax convention with a country with such an appalling record and one in which we have practically no investments whatsoever?

At that time, we asked the officials of the Foreign Affairs Department who appeared before the Foreign Affairs Committee that the next time a similar tax convention bill comes before us to give us a précis on the human rights record of the countries involved. Sadly, this has not been done. What we received was a briefing book extolling all the countries with which we are to ratify these conventions.

I will mention one country with which we have a tax convention, and that is Senegal. I will quote from the briefing book on human rights, which states:

One of the African countries where human rights are best protected, Senegal is a signatory to most international conventions on human rights. Civil and political rights are widely respected...Many NGOs operate in the country, carrying out their work unhindered.

The fact is that the briefing book was extraordinarily misleading. If one refers to Amnesty International, it claims security forces in the area called Casamance were responsible for several cases of extrajudicial executions, disappearances and torture. The U.S. State Department reported that the government rarely tries or punishes members of the military, gendarmerie or police for human rights abuses.

Despite the reassurance in our briefing books regarding NGOs, Amnesty International asserts that there was serious concern about the conditions in which people were detained in Holda, as no human rights organization was allowed access to them despite repeated requests.

I know that I will not get far with this matter, but I wish to make the point that in its extraordinary support of human rights in its own country and elsewhere, Canada should be careful to be consistent with itself in making treaties and conventions with countries that have appalling human rights records. We simply cannot justify the principles that we support with the actions that we are asked to take.

• (1410)

I would have preferred that this bill go to the Standing Senate Committee on Foreign Affairs or to the Standing Senate Committee on Human Rights for a proper appreciation of the implications to Canada of negotiating with certain countries of whose policies, records and actions we completely disapprove.

That is the point I have tried to make. If another bill along the same lines comes before us again, I will try to make the same point again, hopefully with more impact.

The Hon. the Speaker: Is the house ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

[Translation]

TRANSPORTATION APPEAL TRIBUNAL OF CANADA BILL

SECOND READING—DEBATE ADJOURNED

Hon. Aurélien Gill moved that Bill C-34, to establish the Transportation Appeal Tribunal of Canada and to make consequential amendments to other Acts, be read the second time.

He said: Honourable senators, it is with great pleasure that I rise today to support Bill C-34, to establish the Transportation Appeal Tribunal of Canada and to make consequential amendments to other Acts. This bill was studied by the Standing Committee on Transport and Government Operations in the other place and was passed at third reading on October 26, 2001.

I was delighted at the favourable welcome given this bill by all parties in the other place. This shows that all parties can work together for the good of Canadians, recognizing that this initiative is a good idea that makes sense for enforcement.

One of the government's main commitments is to rethink the role of government. In the transportation sector, this means modernizing federal legislation on transport and reviewing the ways the government administers and applies our laws in the interest of Canadians. For the transportation network to be as safe and secure as it can be, the officials of Transport Canada must have a broad range of effective and efficient powers in order to apply the regulations.

When a serious statutory infraction occurs in matters of safety and security, the government has criminal proceedings and sanctions at its disposal. It will continue to deal with this type of offence by exercising its enforcement powers and applying criminal sanctions. However, in accordance with a number of laws on transportation, the department must apply these same criminal proceedings in criminal court to minor regulatory infractions.

Criminal proceedings can be very costly and, in some cases, drag on for years. In most cases, infractions against the various federal statutes on transportation is not a criminal matter. There is a substantial difference between a minor infraction and the criminal sanction that can be imposed. For these two reasons, the practice is increasingly to decriminalize federal legislation on transportation and use administrative enforcement measures rather than criminal proceedings, except for the most serious infractions.

The department may take various types of administrative measures, including measures relating to the delivery of licences, compliance transactions, the imposition of monetary penalties and the issuance of orders relating to railway safety.

The need to provide the department with various administrative powers creates a requirement to provide people and businesses affected by these administrative measures with recourse to an independent body that can review how Transport Canada uses its enforcement powers. In the aviation industry, that body is the Civil Aviation Tribunal. No such tribunal exists for the marine and railway industries. The review processes, where they exist under marine and railway laws, are usually conducted within the department.

The purpose of Bill C-34 and of establishing the Transportation Appeal Tribunal of Canada is to provide to the marine and railway industries the same actual rights of recourse for administrative measures as those currently provided to the aviation industry by the Civil Aviation Tribunal.

The Civil Aviation Tribunal has been serving the aviation industry and the department really well for over 15 years. The tribunal is a small but effective body. In a typical year, it holds about 100 hearings and hears another 100 or so cases that are settled without going through the whole hearing process. It has only two full-time members — the chairperson and the vice-chairperson — and 24 part-time members who hear cases in various regions of the country.

The establishment of this new improved tribunal involves transforming the current Civil Aviation Tribunal into a transportation tribunal that covers more than one mode of transportation. This new tribunal would operate based on the same principles that have contributed to the success of the Civil Aviation Tribunal: expertise, fairness, informal, cost-effective, accessible and affordable. Since the tribunal would be an administrative organization, rather than a criminal tribunal, it would not be subject to certain costs, restrictions and considerations that apply to criminal cases.

The tribunal would hear two different levels of proceedings, the first being review hearings that would be heard by only one member of the tribunal. After hearing from the two parties involved and considering all of the evidence submitted, the member would render his or her decision in writing. A party that was dissatisfied with the decision could appeal it to an appeal panel, generally consisting of three members. Obviously, the member who rendered the first decision would not sit on the appeal panel. The appeal decision would be final.

A key element to the success of the tribunal would be the expertise of the members hearing the cases. The members of the new tribunal would have to have relevant experience in the field of transportation. This means, for example, that an appeal hearing dealing with a marine issue would be heard by a member with experience in that field. If the tribunal were hearing a case where medical issues were dealt with, then the member hearing the case would have medical expertise, regardless of the transportation sector. The types of measures taken by the department could be reviewed by the tribunal, and its decision-making powers are established by the proposed amendments to six transportation acts: the Aeronautics Act, the Marine Transportation Security Act, the Canada Transportation Act, the Canada Shipping Act, the Railway Safety Act, and Bill C-14, the Canada Shipping Act, 2001.

The tribunal's powers would depend on the nature of the administrative decision being reviewed. When the measure is essentially one of a punitive nature, the tribunal could substitute its decision for that of the minister. One example of this would be the review of a monetary administrative penalty.

However, when the measure relates more to competency, to the qualifications required for licensing, to the public interest or other safety considerations, the tribunal would not generally have more than the power to confirm the ministerial decision or refer it back to him for reconsideration.

• (1420)

The bill is not intended to dilute the fundamental responsibilities for safety and security conferred upon the Minister of Transport by various statutes.

In closing, honourable senators, I believe that constituting this tribunal would make a great contribution to legislative reform in the transport sector. I am also convinced that the Transportation Appeal Tribunal of Canada could provide an effective and efficient right of review in the maritime, railway and airline

industries and could benefit from the same levels of support as are now given to the Civil Aviation Tribunal.

I would invite honourable senators to examine this bill and I have every hope that you will also see in it a reasonable and practical approach that merits your support.

On motion of Senator Flynn, debate adjourned.

EXPORT DEVELOPMENT ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Raymond C. Setlakwe moved that Bill C-31, to amend the Export Development Act and to make consequential amendments to Other acts, be now read the second time.

He said: Honourable senators, my experience as a board member of the Export Development Corporation has made me aware of just how well this jewel of the Canadian government is administered, thanks to its excellent management team.

[English]

Bill C-31 is the outcome of a legislative review process mandated in 1993. In that year, a number of amendments were made to the Export Development Act. The purpose of the amendments was to improve the Export Development Corporation's ability to serve Canadian exporters. Canada's trade was expanding rapidly and certain aspects of EDC's operations needed streamlining.

If you review the debates that surrounded the 1993 amendments, honourable senators, you will find a strong consensus that EDC is a key element in Canada's international trade support. The expansion of the corporation's powers in the 1993 amendments was supported by all parties.

I do not have to tell this chamber how important Canada's exports are to our national prosperity. Some 43 per cent of our GDP and one out of four Canadian jobs are directly tied to exports. At the present time, EDC supports nearly 10 per cent of this trade. This is a remarkable role for a single firm and underlines the corporation's importance to Canada.

Since the 1993 amendments took effect, EDC's volume of business has grown almost fourfold, reaching over \$45 billion last year. It is clear that the 1993 changes have borne fruit, but at the time they were seen as a bold step. As a result, Parliament also decided that the corporation's future performance should be carefully monitored. To this end, it imposed a requirement for a thorough review of EDC's mandate and operations in five years' time.

That review commenced as required in 1998 and was the subject of hearings by both the House of Commons Standing Committee on Foreign Affairs and International Trade and the Standing Senate Committee on Banking, Trade and Commerce. The Banking Committee issued a report entitled "Export Development Act" in March 2000.

Not wishing to duplicate the House committee's work, the Banking Committee focused on what it saw as a central issue: the lack of private sector involvement in the medium-term financing of Canadian exporters. The committee therefore called on the government to establish a government guarantee facility that might support more private sector involvement in trade finance.

Before moving to the substance of this bill, I should like to note a few things about the legislative review itself. First, the terms of reference were extremely broad. They touched upon all aspects of EDC's operation and mandates: How are current programs operating, what are its customers' views and those of exporters who did not use its services?

Second, the review looked to the rapidly evolving world of international trade itself and the challenges faced by Canadian exporters in competing internationally. Could current programs be revised to better suit these needs? Was there untapped capacity in the Canadian financial system that EDC might help deliver to exporters?

Third, much emphasis was placed on non-commercial issues such as the environment and human rights. Was the corporation upholding values that reflect Canadian traditions? What effect were Canadian trade activities having on economic and social development in other countries?

Finally, the review included very extensive public consultations. If you look at the lists of witnesses and written submissions during the review, honourable senators, you will see that scores of individuals, companies and organizations were heard. There were additional consultations on discrete issues as well. The review was conducted with great publicity.

This did not always make for easy decisions. There is a huge range of opinion on the issues. Much of it is valid on its own terms, but difficult to reconcile. We did ensure that all voices were heard and that we were well informed concerning where Canadians stand.

[Translation]

There was a strong consensus on certain points. I have already mentioned how much Canada's economic well-being depended on international trade. The review brought out EDC's decisive contribution in this regard. The corporation is a well-managed agency, highly appreciated by its clients and respected by its competitors. EDC comes up with innovative programs and contributes much to multilateral dialogue on trade issues. Whatever the nature of the proposed amendments, it is important to maintain EDC's flexibility in the provision of services and to protect programs that are working well.

At the same time, however, there was agreement on the fact that EDC could do more to ensure respect for the values Canadians expected of a government agency. This was particularly true for matters having to do with the environment and human rights. EDC is Canada's emissary in many regards and all Canadians have a great interest in all of this.

As a result, we were told that EDC should meet reasonable environmental and social standards in the course of its activities. To that end, its environmental assessment framework would have to be firmly anchored in law.

In order to encourage greater transparency and rigour within this framework, the Auditor General could be charged with overseeing its operation on a regular and transparent basis. Committee members said that they were satisfied with the disclosure policy adopted by EDC, which reflected the recommendations in the Gowlings report, but recommended that there be public consultations on this policy and an independent review. We also endorsed the proposal that the corporation consider creating a position of ombudsman to enforce the policy.

Finally, it was recommended that the Export Development Act be amended so the EDC could honour Canada's contractual commitments and obligations in international agreements and in the area of human rights and labour standards, for example.

Naturally, the EDC and international financial institutions are not alone in facing this challenge. Increasingly, these issues concern every firm conducting business on a certain scale. We see, for example, very focussed measures being adopted by individual firms and multilateral bodies, such as the Organization for Economic Cooperation and Development, which is formulating a code of business ethics.

However, there are no easy precedents to follow in taking initiatives like these. New systems always have an impact on costs, on client expectations and on accepted ways of doing business. Naturally, there is some resistance. The work requires time, resources and real commitment. The Government of Canada believes that our crown corporations have both the means and the duty to take a leadership role in this work. However, the importance and complexity of the interests involved mean we must proceed with caution.

[English]

I should like to turn now to Bill C-31 and describe the proposed amendments to the Export Development Act and how they respond to the concerns raised during the legislative review.

• (1430)

EDC served nearly 6,000 Canadian exporters last year. The corporation hopes to continue to broaden this clientele base. To do this, Canada's small and medium-sized enterprises will need easy access to EDC's services. Part of this work involves simple publicity, and some of you will probably have seen EDC's recent television advertisements. Both here and abroad, the corporation is known by the popular acronym, EDC. Bill C-31, therefore, proposes to amend the corporation's name to Export Development Canada in English, and Exportation et développement Canada in French. This change will allow the use of the well-known brand name, EDC, in both official languages. It will strengthen the corporation's connection with Canada's institutions, and it should also facilitate the corporation's outreach marketing, especially to small exporters throughout Canada.

In a subtle way, then, this amendment serves an important objective that I hope we can all support. Bill C-31 also contains two rather technical amendments to the powers of its board of directors. The first would permit delegation of board powers to subcommittees composed of directors with special expertise in some area of corporate concern. It is standard modern business practice. It permits a corporate board to delegate issues to those who are best qualified to deal with them, and it does not absolve the board of ultimate responsibility for the final decisions taken in respect of such questions.

A second related technical amendment will enable EDC's board to make bylaws for the administration of a recently established pension plan. The plan took effect in April 2000. It was established with all appropriate authorizations and is consistent with the Treasury Board policy that Crown corporations should establish pension plans independent of the government plan.

[Translation]

I should like to turn now to the amendments that are probably of most interest to this House. Bill C-31 would establish a legal requirement for the EDC to conduct environmental reviews of the projects it is asked to support. It already does this but the amendment would make it a binding legal obligation. A related amendment would require the Auditor General to conduct regular examinations of the EDC's environmental review framework. These examinations would cover both the design of the framework and the EDC's performance in applying it. The examinations would occur at least once every five years and would be reported to Parliament.

[English]

Critics of Bill C-31 have suggested that EDC should be regulated under the Canadian Environmental Assessment Act. This view was expressed repeatedly throughout the legislative review, but neither Gowlings nor the parliamentary committees took up the suggestion. In fact, Gowlings stated that legislating specific environmental requirements for EDC might not be practical. Instead, they recommended an approach similar to that of the United States export credit agency, Ex-Im Bank.

Ex-Im Bank has had an environmental requirement in its governing legislation for almost 10 years. Ex-Im Bank's practices are often held up as a model for other agencies. In this approach, a general mandate to conduct environmental reviews is set by law, but Ex-Im Bank's board of directors is responsible for developing specific guidelines and procedures in consultation with stakeholders.

After analyzing numerous models, this is precisely what Bill C-31 will do, establish a general environmental mandate while leaving its detailed implementation to EDC's board of

directors. It is the approach that the House committee, with some enhancements, has also endorsed.

[Translation]

EDC recently completed public consultations on revising its environmental review framework. It employed both the Auditor General's recommendations and specific government guidance in undertaking these consultations. It has sought out and taken account of the views of industry and NGOs. It has also engaged a leading environmental consultant to assist with the consultations and prepare detailed recommendations for the framework's revision. No other export credit agency in the world has had its environmental procedures subjected to such meticulous and exhaustive review.

The possibility of regulating EDC under the Canadian Environmental Assessment Act was given careful consideration before the present course was chosen. In taking its decision, the government applied such criteria as ensuring environmentally sound projects, protecting competitiveness, respecting foreign sovereignty and preserving flexibility to operate in the fast paced international environment.

The approach we have chosen is consistent with the emerging practice in the international community and with our work on this issue in the OECD. It would provide a uniform process for EDC's projects and permit rapid adaptation to changing competitive and technical circumstances. To ensure that its procedures and standards are sound, the Auditor General will continue to oversee both its design and operation. There is an issue about which a recommendation was followed in principle, but not through legislative means. It was recommended that EDC's mandate should include a legal requirement to pay due regard to benefits to Canada and Canada's international commitments, particularly those that concern human rights and core labour standards.

[English]

EDC's mandate is trade promotion to the benefit of Canadian exporters and our common prosperity. Furthermore, as an agent of the Crown, EDC is already bound to adhere to Canada's international commitments. However, it was determined that a general statutory mandate of this kind could raise legal risks for the corporation without clarifying the specific requirements that must be met in a given case.

Unlike the environmental mandate, there is no pre-existing framework to help ground such an obligation in concrete operational measures. Nonetheless, the government acknowledges the serious concern that inspired this recommendation and is committed to ensuring that economic benefits and international obligations are taken account of in EDC's decision making. The government has decided to address this issue through two interconnected mechanisms.

In the first place, EDC will be required by its corporate plan to consider economic benefits to Canada and Canada's international commitments in the areas of human rights and core labour standards. Annual preparation of a corporate plan is required for Crown corporations by their governing statute, the Financial Administration Act. A corporate plan sets out and limits the range of a Crown corporation's business and activities. The plan is approved by ministers and tabled in summary form in Parliament, and a Crown corporation cannot act outside its parameters. In addition, the Department of Foreign Affairs and International Trade is working with EDC to refine mechanisms for continuous information exchanges on human rights and specific countries. This will operate at the level of general or sectoral conditions as well as with reference to specific projects.

With respect to the recommendation of the Banking Committee on a guarantee program, no legislative changes are being proposed at this time. However, in accordance with the committee's recommendation, the government officials have discussed this possibility with Canadian and foreign banks as well as international trade experts. Certain measures may be proposed which would address the gap in capacity that the committee had identified, though this would have to be done in a manner that does not disrupt EDC's current programs. There are, of course, serious issues regarding the potentially high cost of a guarantee program.

[Translation]

In bringing Bill C-31 to Parliament, my colleague, the Minister for International Trade, took a very balanced approach to policy reform at EDC. On the one hand, the bill would leave significant responsibility in EDC's hands for the development of environmental and social policies. On the other hand, through regular public consultations and the Office of the Auditor General, the EDC would be held accountable for these policies, which would also be monitored by the government.

Hon. Senators: Hear, hear!

On motion of Senator Kinsella, for Senator Angus, debate adjourned.

[English]

CRIMINAL LAW AMENDMENT BILL, 2001

SECOND READING—DEBATE ADJOURNED

Hon. Landon Pearson moved the second reading of Bill C-15A, to amend the Criminal Code and to amend other Acts.

She said: Honourable senators, I should like to begin the debate on second reading of Bill C-15A, to amend the Criminal Code and to amend other acts.

• (1440)

I asked to sponsor this bill because it contains a number of clauses related to the sexual exploitation of children, a deplorable and inhumane phenomenon that has deeply concerned me for a

number of years. The bill will create a number of new offences with respect to the perversion of the Internet for child pornography and for luring. It will also facilitate the prosecution of Canadian nationals who travel abroad to exploit children.

In addition to responding to serious crimes against children, the amendments proposed in the Criminal Law Amendment Act, 2001, address concerns related to other vulnerable members of society. They also provide an additional safeguard for the law enforcement community, propose improvements to the process for the review of allegations of wrongful conviction and make procedural improvements to the criminal justice system.

Let me turn first to the amendments proposed to protect children from exploitation. In the Speech from the Throne after the last election, the Government of Canada reaffirmed its commitment to safeguard children from criminals on the Internet by ensuring that they are protected from those who would prey on their vulnerability.

The provisions of Bill C-15A that deal with the protection of children respond to this commitment. They also respond to a consensus reached at the last federal-province-territorial meeting of ministers responsible for justice on the creation of an offence of Internet luring.

When I first became disturbed about the exploitation of children for the gratification of the most depraved of human instincts, the World Wide Web did not exist. Now it is expanding by leaps and bounds. Although I can applaud the Internet for its significant role in communication and its capacity to facilitate research, I deplore its corruption in the hands of predators, and I am not alone. Most people in Canada would like to prevent the use of the Internet by persons who, from the safety and secrecy of their homes, use the anonymity of it to lure children into situations where they can be sexually exploited.

The new offence of luring seeks to address what the police and the media have reported is a growing phenomenon. It criminalizes communicating through a computer system for the purpose of facilitating the commission of a sexual offence against a child or the abduction of a child.

Normally, as a result of our ratification of the United Nations Convention on the Rights of the Child, we define children in Canada as all human beings under the age of 18. However, the age of consent to non-criminal sexual activity stands currently at 14 years of age, and there is concern among some that unless it is raised the new luring offence will not protect all children.

I have not completely made up my mind about this. Nevertheless, I am pleased to note that the Minister of Justice has committed to addressing this issue as part of a larger comprehensive review and consultation on the need for criminal law and policy reforms relating to the definition of specific offences against children, age of consent to sexual activity, children's testimony and sentencing. The minister has indicated that she is expecting to receive a final report on the results of this review and consultation by the end of this year and that she will thereafter discuss options for further reform with her federal, provincial and territorial counterparts.

We also want to ensure that those who view or transmit child pornography to others will not escape criminal liability by using new technologies. We will extend the scope of current child pornography offences to make it clear that actions that constitute an offence when committed with traditional means remain an offence when committed with electronic means.

Therefore, in this bill, we are creating four new offences in addition to the new offence of luring: an offence of transmitting child pornography to cover one-to-one distribution, such as e-mail sent to one person only; an offence of making child pornography available, to cover those who post child pornography on a Web site that is publicly accessible but do not take other steps to distribute it; an offence of exporting child pornography, to meet our international obligations; and an offence of accessing child pornography, to capture those who intentionally view child pornography on the Internet but where the legal notion of possession may be problematic. The offence is defined to ensure that inadvertent viewing will not be caught under this offence.

[Translation]

We have already expanded the scope of the offence of possession of child pornography for the purposes of distribution and sale by adding "transmit," "making available," and "exportation" to the purposes.

[English]

In creating these new offences, the government carefully examined how this would affect the industry that has made Canada the world's most connected country. We recognize that Internet service providers cannot be expected to monitor everything that goes through their computer systems. I assure honourable senators that this bill will not require them to do so. All these offences using the Internet to exploit children — the proposed ones and the existing ones — are *mens rea* offences. They cannot be committed by an Internet service provider or anyone else without their knowledge of the elements of the offence.

[Translation]

The bill would grant the court the power to order the suppression of child pornography on the Internet, and it contains provisions that would allow for the instruments belonging to a person convicted of a child pornography offence to be forfeited.

[English]

All child pornography offences and the new offence of luring would be added to the list of offences for which a judge would be authorized to impose a prohibition order or a peace bond, or declare a person a long-term offender. The judge who makes a prohibition order or a peace bond would also be authorized specifically to impose a condition that the person not use the Internet to communicate with a child.

There is another element in this bill unrelated to the Internet that will contribute to the protection of children. Bill C-15A proposes an amendment to the child sex tourism provisions of the Criminal Code to facilitate the prosecution of Canadians who commit a sexual offence against a child in a foreign country. These provisions enable Canadian courts to assume jurisdiction in relation to Canadian nationals who have committed sexual offences against children while abroad.

Under current law, and with the consent of the Attorney General, child prostitution offences can be prosecuted without a specific request from the foreign country in which the offence was committed, but Canadians who have, for example, sexually abused Canadian or other children abroad can only be prosecuted in Canada when such a request has been received. Bill C-15A proposes to simplify this process by eliminating the procedural requirements of the formal request by the foreign country, thereby enabling Canadian prosecutions to be initiated more quickly.

Honourable senators may recall that in Bill C-40, respecting extradition and the Canada Evidence Act, there were measures to facilitate the taking of children's testimony from a foreign country where that should prove useful.

I will now turn to other proposed measures to improve protection for vulnerable Canadians. Bill C-15A proposes to increase the current maximum penalty for the offence of criminal harassment from 5 years to 10 years on indictment. Although anyone can be a victim of criminal harassment, Canadian statistics indicate that victims are overwhelmingly female and offenders male. It is in fact very much an issue of violence against women — often domestic violence against women. This is a familiar issue for many honourable senators. I should like to acknowledge in particular Senator Oliver who, in the previous Parliament, introduced a private member's bill on this subject.

Bill S-17 shares a common objective with Bill C-15A. Both seek to strengthen the response of the criminal justice system to this type of criminal conduct.

[Translation]

In increasing the maximum sentence for criminal harassment from five to ten years, we are sending a clear message to criminal harassers. Criminal harassment is a serious crime that will result in serious consequences.

[English]

The objective of Bill C-15A to diminish criminal harassment is supported by a complementary measure jointly undertaken by the Minister of Justice and her provincial and territorial counterparts. I refer to the development and release of a comprehensive and practical set of guidelines for police, prosecutors and other criminal justice personnel regarding all aspects of a criminal harassment case, including victim safety. These guidelines were released in December 1999 and have been widely distributed across the country.

• (1450)

Turning now to the problem of home invasions, honourable senators may be aware that this phenomenon has achieved a growing prominence in the news media and in the minds of the public. The term "home invasion" is generally used to describe a robbery or a break-and-enter of a private residence where the perpetrator forces entry while the occupants are home and threatens to use or uses violence against the occupants. The Criminal Code offences most commonly used to address home invasion are robbery and break and enter of a dwelling house, both of which carry a maximum penalty of life imprisonment. While the statistical occurrence of home invasions is still low, these incidents have a significant impact on victims and result in many people feeling unsafe within their own homes.

The proposed amendment to the Criminal Code would indicate that where the offender's conduct was in the nature of a home invasion, the court must consider this to be an aggravating factor when determining the sentence to be imposed. Such an amendment would provide clear direction to the courts and would express Parliament's view that home invasions are a grave form of criminal conduct which must be dealt with appropriately during the sentencing process. This amendment also acknowledges that home invasions have a devastating impact on the victims of this type of crime, and that the safety and security of Canadians within their own homes must be protected.

Some critics have called for a different approach to this serious conduct. They have called for a separate offence of home invasion. However, this type of conduct is already covered by existing offences in the Criminal Code, and judges already tend to hand down very severe sentences for crimes involving home invasion, with the range of sentences generally beginning at eight years' imprisonment. The need for a separate offence is not compelling. The aggravating sentencing circumstance provision posed in Bill C-15A is a balanced and reasonable approach to the issue of home invasions.

I should now like to turn to another important measure proposed in Bill C-15A. That is the new offence of disarming or attempting to disarm a peace officer. Bill C-15A creates for the first time in our Criminal Code a new distinct offence of disarming or attempting to disarm a peace officer who is acting in the course of his or her duties and would carry a maximum penalty of five years.

This penalty reflects the seriousness of the offence and sends a clear message that taking a police officers' weapon will not be tolerated.

[Translation]

The government wishes to recognize the contribution of the Canadian Police Association in formulating this measure. The Association pointed out that the disarming of a peace officer was one of the three priorities in the context of the reform of the law. We congratulate it on drawing our attention to this matter, and

the Government of Canada is to be congratulated for acting on it through this amendment.

[English]

We ask police officers to go into many situations that can be extremely volatile. In investigating what may seem to be routine incidents, the officer may not know the whole situation. It may not be self-evident that a suspect is likely to be violent. If someone takes an officer's gun or baton, a relatively routine investigation can suddenly escalate, becoming deadly. There are examples of police officers responding to bar room brawls where the officer is wrestled for his gun or attacked by multiple assailants. Intoxicated suspects may grab for the weapon in an effort to resist the police in the police cruiser or in a lock-up. Other suspects may do anything to escape, including turning a police weapon on the arresting officer. Hopefully, a specific offence in the Criminal Code will make suspects think twice about trying to snatch a weapon away from an investigating officer.

Bill C-15A contains important improvements to the current procedure for reviewing alleged wrongful convictions. These proposed amendments to the post-appellate conviction review process will make the process more efficient, open and accountable. They are intended to address the concerns of critics of the current section 690 conviction review process.

The efficiency and integrity of the criminal justice system depends on its ability to protect the innocent while bringing those who are guilty of crime to justice. However, the *Donald Marshall* and *David Milgaard* cases have shown us that despite all the precautions that the justice system takes to avoid the conviction of an innocent person, wrongful convictions can and regrettably do occur.

[Translation]

The system of reviewing applications for clemency in Canada is for those who believe they have been the victim of a miscarriage of justice and who have exhausted all avenues of legal recourse open to them. Requests for clemency are directed to the Minister of Justice of Canada who decides, on the basis of new information not available at the time of the trial or appeal, whether a new trial should be ordered. The review process is the ultimate safety net for victims of a miscarriage of justice. Thanks to it, such cases are returned to the justice system.

[English]

However, there are many critics of the existing system. For many years now, there have been calls for the reform of how cases involving the alleged miscarriages of justice are handled. In October, 1998, the Minister of Justice released a public consultation paper, seeking submissions on how our conviction review process could be improved. The minister was searching for a fair and efficient solution that would serve the best interests of the Canadian public and our system of justice.

Some critics asserted that Canada needs an independent body to review alleged wrongful convictions similar to the Criminal Cases Review Commission which was created in 1997 in Great Britain. However, at the end of an extensive consultation process, the Minister of Justice rejected the option of an independent body and concluded that the ultimate decision-making authority in criminal conviction review should remain with the federal Minister of Justice because the role of the federal Minister of Justice is ideally suited to the task of effective gate-keeping and returning appropriate cases back to the judicial system. The federal Minister of Justice is accountable to Parliament and to the people of Canada. This approach recognizes and maintains the traditional jurisdiction of the courts while providing a fair and just remedy in those exceptional cases that have somehow fallen through the cracks of the conventional justice system.

However, the consultation process also reveals that maintaining the current state of conviction review is not a desirable option and that improvements are necessary to the current system.

One of the key criticisms of the current conviction review process is how long it takes to review an application. The amendments proposed in this bill are intended to address this concern. The amendments would provide investigative powers to those investigating cases on behalf of the Minister of Justice. For the first time this would allow investigators to compel witnesses to testify and also to compel the production of documents. Such powers would enhance the thoroughness, effectiveness and timeliness of the review process.

In order to make the conviction review process more open and accountable, ministers of justice will now be required to provide an annual report to Parliament with respect to applications for a conviction review.

The Criminal Code currently limits conviction reviews to those who have been convicted of the serious most indictable offences but, in recognition of the fact that any wrongful conviction is wrong and threatens public confidence in the justice system, Bill C-15A proposes that conviction reviews be expanded to allow for the review of any federal conviction.

The Minister of Justice also intends to implement administrative changes to the conviction review unit to help make the conviction review process more open, accessible and accountable. The conviction review unit will be expanded to include investigators. A Web site will be created to give applicants information on the process and a special adviser will be appointed to oversee the review of applications and to provide advice directly to the minister.

[Translation]

The government recognizes that these legislative and administrative amendments are the most effective and efficient way of improving the extrajudicial process of reviewing a decision by an appeal court in Canada.

[English]

Now let me turn to the area of criminal procedure reform.

[Translation]

For some time now, the federal government has been working closely with the provinces and territories on reforming criminal procedure. Two series of reforms were proposed, one in 1994 — Bill C-42 — and the other in 1996 — Bill C-17 — and are now in effect. These first two series of reforms have permitted better management of the resources of the criminal justice system. The governments are now calling for a third phase. It contains the amendments proposed in C-15A.

[English]

The objectives at phase 3 are to simplify trial procedure, modernize the criminal justice system and enhance its efficiency through the increased use of technology; and to better protect victims and witnesses in criminal trials and provide speedy trials in accordance with charter requirements. This phase is an essential instalment in our efforts to modernize our procedure without in any way reducing the measure of justice provided by the system.

• (1500)

The criminal procedure reform amendments proposed in Bill C-15A would retain the unconditional right to a preliminary inquiry for indictable offences on request, while modifying some procedural aspects of the inquiry; create a limited defence disclosure obligation with respect to expert evidence; facilitate the application of new technology, such as the use of electronic documents; expand the potential for remote appearances; codify a plea comprehension inquiry scheme to make it easier for the attorneys general to carry out the duty of supervising private prosecutions; place restrictions on the use of agents in criminal matters; and allow for the selection of two jury alternates, who would be on hand until the start of a trial.

As I said at the outset, this package of reforms was developed in partnership with the provinces and the territories. They support these reforms, and because they are responsible for the administration of justice, I believe we should do our best to give them the tools they need to ensure the efficient and effective operation of the criminal justice system.

Honourable senators, I should like to say a few words about amendments proposed in Bill C-15A to the National Capital Act and the National Defence Act. In order to make the National Capital Act consistent with other federal legislation regulations, it is proposed that the maximum fine available for offences in regulations under the act be increased from \$500 to \$2,000, the maximum fine currently provided in the Criminal Code for summary conviction matters. The types of offences this proposed change would target are relatively serious regulatory offences, such as poaching of large game and illegal dumping of waste.

The proposed amendments to the National Defence Act would allow for the taking of fingerprints and other information from persons charged with or convicted by court martial of designated service offences. The designated service offences would be offences that are identical or substantially similar to offences for which civilians are currently subject to fingerprinting under the Identification of Criminals Act. This legislative authority is proposed to enable police forces to have access to the full criminal record of persons dealt with under the Code of Service Discipline.

Honourable senators, Bill C-15A, like all omnibus bills amending the Criminal Code, addresses a number of disparate issues. Before it was split apart, Bill C-15 was even more varied in its content. No doubt, we will eventually get Bill C-15B and have the opportunity to examine issues related to the cruelty of animals as well as to firearms. Someone else can carry that charge.

I am more than happy to seek support for the A section of Bill C-15. I am particularly pleased with the clauses seeking to protect children from predators on the Internet and to prevent the spread of child pornography. Since 1996, I have chaired the interdepartmental committee following the First World Congress Against the Commercial Sexual Exploitation of Children in Stockholm. During that time, several police officers — cyber-cops — have shared their frustration about pursuing individuals who have used the Internet to entrap young people. Once upon a time, home was a sanctuary from predators at the door, but since the arrival of the Internet, that is no longer the case. Bill C-15A will not solve electronic invasions, but it will certainly help. Also, some children, when this bill is enacted, will be better protected by Canadian law when they travel abroad.

The harassment and home invasion amendments also move in the right direction for the protection of the vulnerable. Peace officers may appear less vulnerable than others whose protection is sought in this bill. Nevertheless, they take many risks on our behalf and deserve the support that the amendments to criminalize successful, or even unsuccessful, attempts to disarm them, may be able to provide them as they go about their business.

I also agree with the amendments to improve the review process for alleged wrongful convictions, having been convinced of the usefulness of the proposed procedural changes. As for the amendments to both the National Capital Act and the National Defence Act, they appear sensible and necessary.

Bills such as C-15A are very hard to read, unless you have the Criminal Code beside you. However, I have asked many questions and I have been both educated and generally satisfied by the answers I have received.

Honourable senators, I seek your support for this bill, confident it will make a positive difference for all Canadians. I would like to be able to tell the 2,000 people who will assemble this coming December in Yokohama, Japan for the second World Congress Against Commercial Sexual Exploitation, that we will soon have a new law that could serve as an example for other countries struggling with the same issues.

On motion of Senator Kinsella, for Senator Nolin, debate adjourned.

[Translation]

PRIVACY RIGHTS CHARTER BILL

SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Rompkey, P.C., for the second reading of Bill S-21, to guarantee the human right to privacy.—(*Subject-matter thereof referred to the Standing Senate Committee on Social Affairs, Science and Technology, April 26, 2001.*)

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, when the subject matter of this bill was referred to the Standing Senate Committee on Social Affairs, Science and Technology, it was agreed that this item would remain on the Order Paper for 15 days. Since that period has now expired, I move that this item be put back on the Order Paper for a second 15-day period.

[English]

The Hon. the Speaker: Honourable senators, is leave granted to recommence the time running on Bill S-21?

Hon. Senators: Agreed.

Motion agreed to.

ANTI-TERRORISM BILL

REPORT OF SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-36 TABLED

Leaving having been given to revert to Presentation of Reports from Standing or Special Committees:

Hon. Joyce Fairbairn: Honourable senators, I have the honour to table the first report of the Special Committee on the Subject Matter of Bill C-36, to amend the Criminal Code, the Official Secrets Act, the Canada Evidence Act, the Proceeds of Crime (Money Laundering) Act and other Acts, and to enact measures respecting the registration of charities, in order to combat terrorism and explore the protection of human rights and civil liberties in the application of this Act.

Pursuant to rule 97(3), I move that the report be placed on the Orders of the Day for consideration on Wednesday next, November 7, 2001, and that a message be sent to the House of Commons to acquaint that House with the contents of the said report.

(*For text of report, see Appendix of today's Journals of the Senate, p. 930.*)

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Motion agreed to.

• (1510)

ASIAN HERITAGE

MOTION TO DECLARE MAY AS MONTH OF RECOGNITION— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Poy, seconded by the Honourable Senator Carney, P.C.:

That May be recognized as Asian Heritage Month, given the important contributions of Asian Canadians to the settlement, growth and development of Canada, the diversity of the Asian community, and its present significance to this country.—(*Honourable Senator Taylor*).

Hon. Nicholas W. Taylor: Honourable senators, I wish to speak in support of this motion mainly in relation to my life experience in Western Canada with three groups. First are the Sikh people, who are mostly from the Punjab and speak Punjabi. Today these people dominate our timber industry. In fact, since the Americans have bought out most of the large Canadian companies, they are the backbone of our independent lumber movement, or fibre processing movement, in British Columbia, Alberta and Saskatchewan.

The Sikh people have many family loyalties and send their children to university to study particularly the sciences. In the last 25 years, they were very much involved in building the modern Western Canada. They have had a dominant influence, which is much appreciated. Theirs is the type of immigration one often reads about where an immigrant comes to this country and creates three or four local jobs.

Sikhs have also become members of Parliament. They are somewhat like the Irish — a bit disputatious; hence, they are attracted to politics. The Sikhs do not wait three or four generations before they can get into politics. They usually leap into that sector of society quickly. They make great politicians and they have members in all political parties.

When we talk about the peoples of Asia who have contributed to Canada, another group of people I want to mention is the Japanese. Again, as a Westerner, I was just approaching my teenage years when the Japanese were moved out of British Columbia. We now look back on that time and say it was a horrible thing to do because they were citizens, and some of them had been citizens for two or three generations. All one needs to do these days is pick up a newspaper and read about the holy war in Afghanistan, with Afghans who do not own much more than a .22 rifle being pounded into the dirt, to show how propaganda can get people excited.

The excitement back in the 1940s was the fear that if the Japanese were left alone on the waterfront, they would take their

flashlights and signal the submarines to come and blow up Vancouver. The fact that Vancouver might be blown up really did not bother the Albertans much, but what did happen is the Japanese were moved into camps in Central B.C., which were very much like concentration camps, only they were Canadian concentration camps.

After a year or so, it was decided that the Japanese could do more good in Southern Alberta. That is where I spent my teenage years, where they were working on the farms, in irrigation and in the truck gardens. They came and, rather amazingly, the Southern Albertans adopted them as if they were members of the family. There was a certain amount of discrimination here and there, but being that Southern Alberta was an area of immigrants, the arrival of the Japanese did not make much difference. In fact, I went to a school where I was from one of the only Anglo-Saxon families. I could swear better in Hungarian than I could in English up until I was 14 or 15 years old.

The Japanese were very much a part of our community. The beauty of these Asiatic people was that they never held a grudge. Many of them did not bother going back to British Columbia. They intermarried and have become leading citizens in that part of Alberta. Many who came from concentration camps in B.C. have become mayors, doctors and leading citizens in our communities. To this day, their lack of rancour or sense of being mistreated is absolutely amazing. They have forgiven us for what was almost unforgivable and have become a big part of the Canadian mosaic.

To go back farther in time, I was raised in Southern Alberta when the drought decimated the crops. Very few crops grew in a large portion of Southern Alberta and Saskatchewan. What there was to sell went at very low prices indeed. The farmers got little for their commodities. Yet, in most towns, the only people doing business were the Asian people. The banks and the loan companies had taken off because no one in their right mind would loan money to a farmer in those days. However, there was always a Chinese merchant in those towns.

Quite often these Chinese merchants owned a grocery store and/or a restaurant. Many families in Western Canada, especially in the southern part of Alberta, Saskatchewan and Manitoba affected by drought, owe their survival to these Chinese. This fact is often overlooked today. These immigrants, who were not even allowed to bring their wives and families over to Canada, still went into the towns and extended credit. They were not bankers, but one could always go into the Chinese restaurant or the Chinese grocery store if times were hard and the merchant nearly always extended credit. They became the backbone of the whole area as far as retaining the population.

If it were not for the Chinese merchants, we would have a more desolate looking Alberta and Saskatchewan than we do today. At the very least, there would be a different group of people populating that region of Canada. We mistreated the Asian merchants as much as we had the Japanese at a later time.

• (1520)

They came into the community and sold groceries and extended credit. As a result, they very much became a part of the community. To this day, it is a tribute to them that we are paying them back in a very small way in recognizing their importance by having a person of Chinese heritage in the position of Governor General of Canada.

I want to give credit to the Chinese and the Japanese for moving to Canada and staying here after they had been placed in concentration camps. I do not think any of us — certainly none of my ancestors, who were mostly Scottish and Indian — would have been able to forgive had that been done to them. Yet the Japanese and Chinese mostly forgave us, moved in and helped us set up the economies of Alberta and Saskatchewan. For that, I will be eternally grateful.

On motion of Senator LaPierre, debate adjourned.

[Translation]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

MOTION TO AUTHORIZE COMMITTEE TO STUDY RENEWAL OF BROADCASTING CONTRACT WITH CPAC— DEBATE ADJOURNED

Hon. Jean-Robert Gauthier, pursuant to notice of June 11, 2001, moved:

That the Standing Committee on Internal Economy, Budgets and Administration be authorized to examine and report upon the renewal of the television broadcasting agreement between the Senate and CPAC (the Cable Public Affairs Channel), so that it includes the subtitling of parliamentary debates authorized on television and the renewal of this agreement follows up on CPAC's commitments concerning services to the hearing impaired.

He said: Honourable senators, Motion No. 68 is similar to Inquiry No. 13, which I have been sponsoring for some time and which has been discussed in the Senate on a few occasions.

If this motion is adopted by the Senate, it will authorize the Standing Committee on Internal Economy, Budgets and Administration to examine and report on the renewal of the television broadcasting agreement between the Senate and CPAC, so that it includes the subtitling of parliamentary debates authorized on television.

Honourable senators, you will recall that I raised this matter on a number of occasions in this chamber, since the agreement between the Senate and CPAC, the Cable Public Affairs Channel, expired on August 30, 2000, over a year ago. My concern was to ensure that, in the negotiations underway, the new agreement would provide for the continued broadcasting of our

deliberations, and that those deliberations would be accompanied by coded, or real time, subtitling.

I am also concerned about the renewal of the agreement between the House of Commons and CPAC. As things now stand, the House of Commons debates are available and televised with subtitling during Oral Question Period. As subtitling is available only in English right now, this has led to warranted criticism from certain people, especially in the maritime provinces, who were served by a local cable company which received only the video and audio from the floor of the House, in other words, the language used by the member.

They wondered why they could not receive the signal in their mother tongue. Complaints were filed with the Commissioner of Official Languages. The latter investigated and the Joint Committee on Official Languages met to study the matter and report. The report, tabled in the House, called on the government to come up with a comprehensive response to the issue and that is what it did on September 26, 2001.

I will read from a letter signed by the Leader of the Government in the House of Commons, the Honourable Don Boudria:

The government wishes to express its support for televising the debates and proceedings of parliament in both official languages. The government believes that access by more Canadians to the televised debates and proceedings of parliament plays an essential role in the democratic process in Canada.

• (1530)

Under our country's Constitution, one or the other of the country's official languages is used in Parliament and in the courts. As a result, automatically, the debates are broadcast in both official languages, and if possible, with closed captioning in order to allow the deaf and hearing-impaired to follow what is going on in the Parliament of Canada.

I recommend the report of the Joint Committee on Official Languages to anyone wishing more detail on this. It contains some realizable recommendations. The political desire to implement them is necessary, however, and it is high time this was addressed. The report is entitled "Broadcasting and Availability of the Debates and Proceedings of Parliament in both Official Languages", and it was tabled in the Senate on May 2 and adopted on May 16. The government response was provided on September 26.

I have two areas of concern. The first is to ensure that the new agreement the consortium of CPAC broadcasters has negotiated with the House of Commons and the Senate stipulates that the debates will be supplied by the Parliament of Canada not only in both official languages but also closed-captioned to ensure everyone has access to these debates. It is obvious that we will have some important decisions to take before achieving accessible service for all. At present, the deliberations of the Senate are not broadcast, except for the occasional committee.

Some claim that it was the fault of CPAC that the message was not broadcast in both official languages. CPAC is the messenger. It takes the message that it is given by the House of Commons or the Senate and it rebroadcasts it through its system of satellites across the country. It is the Parliament of Canada that is responsible for the message. It is the Speaker of the House of Commons and the Chair of the Senate Committee on Internal Economy, Budgets and Administration who are responsible for ensuring that there is a certain amount of discipline when it comes to the use of both languages in the broadcasting of our message.

My second concern involves convincing Senate authorities that the time is long overdue that we broadcast the parliamentary debates of the Senate. It is unacceptable that in this era of modern communications, the Senate is not outfitted with the latest technologies to provide Canadians with access to parliamentary debates, which would allow them to learn more about the important work of the Senate. It would also allow journalists to follow the debate in the Senate and understand the importance of our work.

Some committees are broadcast. It is not consistent, even if our contract with CPAC, which expired in August 2000, contained a commitment that we would provide between six and eight hours per week. I seriously doubt that we delivered.

I am convinced that these days we need to broadcast not only the Senate committees, but also the debates in the Senate chamber. This would contribute to a better understanding of the work that senators accomplish. Another option would be to allow the committees to do it, but based on the availability of equipment and human resources, since it requires specially equipped rooms.

I would like to use the example of the ceremony of Royal Assent, which takes place here in the Senate. In the House of Commons, the Usher of the Black Rod invites members to come to the Senate and attend the ceremony. It is public in the other place, but not here, because it is not broadcast. Back in the Senate, the ceremony continues, out of the camera's eye. I really do not understand how a serious ceremony can be broadcast publicly because part of it takes place in part in the House of Commons and not broadcast because here we do not have the equipment. Perhaps we lack the desire as well!

At the moment, there is a government bill to change the procedure of Royal Assent, because a number of senators and members consider it a waste of time. They say it is symbolic. That is true. It is one of the important duties of the Governor General. He — or his representative — comes here to give Royal Assent to bills passed by both Houses of Parliament. That is important. It would be interesting for Canadians to understand what we mean when we speak of S-29, C-15 or C-11.

The present situation contributes indirectly to a lack of visual and audio information when things as important as Royal Assent

occur. The Chair of the Standing Committee on Internal Economy, Budgets and Administration, Senator Kroft, reminded us in his speech last week that the CRTC had published the broadcasting requirements for closed captioning in 1995.

In a press release dated March 24, 1995, the CRTC dealt with a number of social issues considered in renewing television station licences, including the situation of the deaf and the hearing-impaired. The CRTC required large stations — those with annual revenues of over \$10 million — to closed-caption at least 90% of all programs in a broadcasting day before the end of the period covered by their licence. CPAC is not a television channel, but a public service, a consortium of cable companies which broadcast certain signals, in particular those from the House of Commons and from the Senate when available, to their clients.

I would like the Senate to agree to allow our proceedings to be broadcast with closed captioning. For some time now, I have been provided with a stenotypist, who has a laptop computer. I can therefore follow what is going on in the Senate because this person uses her stenotype to produce a visual form of the oral signal she receives. This is very helpful to me. There are 200,000 people in Canada with hearing problems. People from the Canadian Hard of Hearing Association have been to see me and asked me to explain to you the difficulties they are having. It is very important for Canadians who wish to watch the proceedings of the Senate and the House of Commons to have access to closed captioning in real time. This is essential in a good democracy.

• (1540)

I acknowledge that there are problems, but there is also a considerable demand for these specialized stenotypists in public bodies, television, the courts, the provincial legislatures and the Parliament of Canada. We need that service.

It is hard to get qualified stenotypists because, now, training is provided only in English, in Toronto, Edmonton and Vancouver. There is none in French at this time.

I tried to convince La Cité Collégiale, a post-secondary institution in Ottawa, to provide a French stenotyping course. It took some months and I was told that there was an interest, provided we could ensure employment for future students.

I answered that the need was there, and we were not the only ones needing stenotypists. The Supreme Court, the Federal Court, courts in general need them, as do both the House of Commons and the Senate. We need French stenotypists. There has been no training available since the fall. The last school, which was in Montreal, closed down because the lady who ran it reached retirement age. We are in a bind! There is no more training available. I think it is absolutely essential to set up a course.

The Hon. the Speaker *pro tempore*: I regret to inform the honourable senator that his time is up. Does the honourable senator have leave to continue?

Some Hon. Senators: Yes.

Senator Gauthier: Honourable senators, this matter has been discussed on several occasions and I would simply like to enlist my colleagues' patience and generosity and ask that the motion be adopted and referred to the Standing Committee on Internal Economy, Budgets and Administration so that we can continue to address the matter in a serious way and draft a report, in order to give Canadians a clear message that Parliament, the Senate and the House of Commons, do indeed want them to have television broadcasting in both official languages and with closed-captioning.

Hon. Eymard G. Corbin: Honourable senators, I want to discuss the motion brought forward by Senator Gauthier for a few minutes and then I intend to move that the debate be adjourned.

First, I want to congratulate Senator Gauthier once again and say how much I admire his tenacity and his determination when it comes to issues that relate not only to the Official Languages Act and its application, but also to issues that have surfaced since his unfortunate disease.

It is hard to have an idea of what a handicap really is unless we suffer from it. I know about this. There was a time when, as a student, I was learning to play oboe, clarinet and saxophone. Since one needs all ten fingers to play these instruments, I had to give up learning how to play them.

It is then that I realized that we sometimes take other people's condition for granted and that, regardless of the circumstances, we think these people will reintegrate and carry on with their lives. However, there are things in life that are quite shattering. Deafness, to which Senator Gauthier's motion refers, is one of them.

Since he himself is affected by this condition, Senator Gauthier is asking that we meet the expectations and needs of the many Canadians who suffer from this condition. Closed-captioning is important not only in terms of complying with, applying or broadening the scope of the Official Languages Act. It is also a practice that should gradually be introduced as we get the necessary resources, while also taking advantage of the new techniques that are constantly evolving in many other communication sectors.

In a country that claims not only to be bilingual, but also multicultural, this is important in terms of cultural gains.

Honourable senators, I will stop here for now. I intend to reread Senator Gauthier's comments with great attention, because I was distracted at times. I will continue on another day.

On motion of Senator Corbin, debate adjourned.

[*English*]

[*Earlier*]

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO
MEET DURING SITTING OF THE SENATE

Hon. Peter A. Stollery: Honourable senators, the Deputy Prime Minister of Russia is visiting us today. These things are sometimes a little out of our control. Thus, with leave of the Senate, I move:

That the Standing Senate Committee on Foreign Affairs be authorized to sit today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

• (1550)

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

• (1550)

ANTI-TERRORISM BILL

REPORT OF SPECIAL COMMITTEE ON SUBJECT MATTER
OF BILL C-36—CORRECTED FRENCH VERSION TABLED

Leave having been given to revert to Tabling of Documents:

Hon. Joyce Fairbairn: Honourable senators, earlier in the afternoon I tabled the first report of the pre-study of the Special Senate Committee on Anti-terrorism, studying Bill C-36. There was a line dropped in the French version. I have that now corrected. I would seek leave to table this in its place.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

(*For text of report, see Appendix of today's Journals of the Senate, p. 930.*)

[Translation]

• (1630)

ADJOURNMENT

Leave having been given to revert to Notices of Motions:

The Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until at 2 p.m.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned during pleasure.

ROYAL ASSENT

The Honourable Jack Major, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Acting Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bill:

An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts (*Bill C-14, Chapter 26/2001*).

An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger (*Bill C-11, Chapter 27/2001*).

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

The Senate adjourned until Tuesday, November 6, 2001, at 2 p.m.

APPENDIX

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate

THE SPEAKER

THE HONOURABLE DANIEL P. HAYS

THE LEADER OF THE GOVERNMENT

THE HONOURABLE SHARON CARSTAIRS, P.C.

THE LEADER OF THE OPPOSITION

THE HONOURABLE JOHN LYNCH-STAUTON

OFFICERS OF THE SENATE**CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

PAUL BÉLISLE

DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES

GARY O'BRIEN

LAW CLERK AND PARLIAMENTARY COUNSEL

MARK AUDCENT

USHER OF THE BLACK ROD (ACTING)

BLAIR ARMITAGE

THE MINISTRY

According to Precedence

(November 1, 2001)

The Right Hon. Jean Chrétien	Prime Minister
The Hon. Herbert Eser Gray	Deputy Prime Minister
The Hon. David M. Collenette	Minister of Transport
The Hon. David Anderson	Minister of the Environment
The Hon. Ralph E. Goodale	Minister of Natural Resources and Minister responsible for the Canadian Wheat Board
The Hon. Brian Tobin	Minister of Industry
The Hon. Sheila Copps	Minister of Canadian Heritage
The Hon. John Manley	Minister of Foreign Affairs
The Hon. Paul Martin	Minister of Finance
The Hon. Arthur C. Eggleton	Minister of National Defence
The Hon. Anne McLellan	Minister of Justice and Attorney General of Canada
The Hon. Allan Rock	Minister of Health
The Hon. Lawrence MacAulay	Solicitor General of Canada
The Hon. Alfonso Gagliano	Minister of Public Works and Government Services
The Hon. Lucienne Robillard	President of the Treasury Board and Minister responsible for Infrastructure
The Hon. Martin Cauchon	Minister of National Revenue and Secretary of State (Economic Development Agency of Canada for the Regions of Quebec)
The Hon. Jane Stewart	Minister of Human Resources Development
The Hon. Stéphane Dion	President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs
The Hon. Pierre Pettigrew	Minister of International Trade
The Hon. Don Boudria	Leader of the Government in the House of Commons
The Hon. Lyle Vanclicf	Minister of Agriculture and Agri-Food
The Hon. Herb Dhaliwal	Minister of Fisheries and Oceans
The Hon. Ronald J. Duhamel	Minister of Veterans Affairs and Secretary of State (Western Economic Diversification) (Francophonie)
The Hon. Claudette Bradshaw	Minister of Labour
The Hon. Robert Daniel Nault	Minister of Indian Affairs and Northern Development
The Hon. Maria Minna	Minister for International Cooperation
The Hon. Elinor Caplan	Minister for Citizenship and Immigration
The Hon. Sharon Carstairs	Leader of the Government in the Senate
The Hon. Robert G. Thibault	Minister of State (Atlantic Canada Opportunities Agency)
The Hon. Ethel Blondin-Andrew	Secretary of State (Children and Youth)
The Hon. Hedy Fry	Secretary of State (Multiculturalism) (Status of Women)
The Hon. David Kilgour	Secretary of State (Latin America and Africa)
The Hon. James Scott Peterson	Secretary of State (International Financial Institutions)
The Hon. Andrew Mitchell	Secretary of State (Rural Development) (Federal Economic Development Initiative for Northern Ontario)
The Hon. Gilbert Normand	Secretary of State (Science, Research and Development)
The Hon. Denis Coderre	Secretary of State (Amateur Sport)
The Hon. Rey Pagtakhan	Secretary of State (Asia-Pacific)

SENATORS OF CANADA

ACCORDING TO SENIORITY

(November 1, 2001)

Senator	Designation	Post Office Address
THE HONOURABLE		
Herbert O. Sparrow	Saskatchewan	North Battleford, Sask.
Edward M. Lawson	Vancouver	Vancouver, B.C.
Bernard Alasdair Graham, P.C.	The Highlands	Sydney, N.S.
Jack Austin, P.C.	Vancouver South	Vancouver, B.C.
Willie Adams	Nunavut	Rankin Inlet, Nunavut
Lowell Murray, P.C.	Pakenham	Ottawa, Ont.
C. William Doody	Harbour Main-Bell Island	St. John's, Nfld.
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa, Ont.
E. Leo Kolber	Victoria	Westmount, Que.
Michael Kirby	South Shore	Halifax, N.S.
Jerahmiel S. Grafstein	Metro Toronto	Toronto, Ont.
Anne C. Cools	Toronto-Centre-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujuuaq, Que.
Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary, Alta.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montreal, Que.
Eymard Georges Corbin	Grand-Sault	Grand-Sault, N.B.
Brenda Mary Robertson	Riverview	Shediac, N.B.
Norman K. Atkins	Markham	Toronto, Ont.
Ethel Cochrane	Newfoundland	Port-au-Port, Nfld.
Eileen Rossiter	Prince Edward Island	Charlottetown, P.E.I.
Mira Spivak	Manitoba	Winnipeg, Man.
Roch Bolduc	Gulf	Sainte-Foy, Que.
Gérald-A. Beaudoin	Rigaud	Hull, Que.
Pat Carney, P.C.	British Columbia	Vancouver, B.C.
Gerald J. Comeau	Nova Scotia	Church Point, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	Nova Scotia	Halifax, N.S.
Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton, N.B.
John Buchanan, P.C.	Nova Scotia	Halifax, N.S.
John Lynch-Staunton	Grandville	Georgeville, Que.
James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie, Ont.
J. Trevor Eyton	Ontario	Caledon, Ont.
Wilbert Joseph Keon	Ottawa	Ottawa, Ont.
Michael Arthur Meighen	St. Marys	Toronto, Ont.
J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth, N.S.
Janis G. Johnson	Winnipeg-Interlake	Winnipeg, Man.
A. Raynell Andreychuk	Regina	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
Terrance R. Stratton	Red River	St. Norbert, Man.
Marcel Prud'homme, P.C.	La Salle	Montreal, Que.
Leonard J. Gustafson	Saskatchewan	Macoun, Sask.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
W. David Angus	Alma	Montreal, Que.

ACCORDING TO SENIORITY

Senator	Designation	Post Office Address
THE HONOURABLE		
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton	Ontario	Manotick, Ont.
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Lise Bacon	De la Durantaye	Laval, Que.
Sharon Carstairs, P.C.	Manitoba	Victoria Beach, Man.
Landon Pearson	Ontario	Ottawa, Ont.
Jean-Robert Gauthier	Ottawa-Vanier	Ottawa, Ontario
John G. Bryden	New Brunswick	Bayfield, N.B.
Rose-Marie Losier-Cool	Tracadie	Bathurst, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
William H. Rompkey, P.C.	Labrador	North West River, Labrador, Nfld.
Lorna Milne	Peel County	Brampton, Ont.
Marie-P. Poulin	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.
Shirley Maheu	Rougemont	Saint-Laurent, Que.
Nicholas William Taylor	Sturgeon	Chestermere, Alta.
Wilfred P. Moore	Stanhope St./Bluenose	Chester, N.S.
Lucie Pépin	Shawinigan	Montreal, Que.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Marisa Ferretti Barth	Repentigny	Pierrefonds, Que.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Thelma J. Chalifoux	Alberta	Morinville, Alta.
Joan Cook	Newfoundland	St. John's, Nfld.
Ross Fitzpatrick	Okanagan-Similkameen	Kelowna, B.C.
The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto, Ont.
Francis William Mahovlich	Toronto	Toronto, Ont.
Richard H. Kroft	Manitoba	Winnipeg, Man.
Douglas James Roche	Edmonton	Edmonton, Alta.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Vivienne Poy	Toronto	Toronto, Ont.
Sheila Finestone, P.C.	Montarville	Montreal, Que.
Ione Christensen	Yukon Territory	Whitehorse, Y.T.
George Furey	Newfoundland and Labrador	St. John's, Nfld.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Isobel Finnerty	Ontario	Burlington, Ont.
John Wiebe	Saskatchewan	Swift Current, Sask.
Tommy Banks	Alberta	Edmonton, Alta.
Jane Cordy	Nova Scotia	Dartmouth, N.S.
Raymond C. Setlakwe	The Laurentides	Thetford Mines, Que.
Yves Morin	Lauzon	Quebec, Que.
Elizabeth M. Hubley	Prince Edward Island	Kensington, P.E.I.
Jim Tunney	Ontario	Grafton, Ont.
Laurier L. LaPierre	Ontario	Ottawa, Ont.
Viola Léger	New Brunswick	Moncton, N.B.
Mobina S. B. Jaffer	British Columbia	North Vancouver, B.C.
Jean Lapointe	Saurel	Magog, Que.
Gerard A. Phalen	Nova Scotia	Glace Bay, N.S.
Joseph A. Day	Saint John Kennebecasis	Hampton, N.B.
Michel Biron	Mille Isles	Nicolet, Que.

SENATORS OF CANADA

ALPHABETICAL LIST

(November 1, 2001)

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Adams, Willie	Nunavut	Rankin Inlet, Nunavut	Lib
Andreychuk, A. Raynell	Regina	Regina, Sask.	PC
Angus, W. David	Alma	Montreal, Que.	PC
Atkins, Norman K.	Markham	Toronto, Ont.	PC
Austin, Jack, P.C.	Vancouver South	Vancouver, B.C.	Lib
Bacon, Lise	De la Durantaye	Laval, Que.	Lib
Banks, Tommy	Alberta	Edmonton, Alta.	Lib
Beaudoin, Gérald-A.	Rigaud	Hull, Que.	PC
Biron, Michel	Mille Isles	Nicolet, Que.	Lib
Bolduc, Roch	Gulf	Sainte-Foy, Que.	PC
Bryden, John G.	New Brunswick	Bayfield, N.B.	Lib
Buchanan, John, P.C.	Halifax	Halifax, N.S.	PC
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.	Lib
Carney, Pat, P.C.	British Columbia	Vancouver, B.C.	PC
Carstairs, Sharon, P.C.	Manitoba	Victoria Beach, Man.	Lib
Chalifoux, Thelma J.	Alberta	Morinville, Alta.	Lib
Christensen, Ione	Yukon Territory	Whitehorse, Y.T.	Lib
Cochrane, Ethel	Newfoundland	Port-au-Port, Nfld.	PC
Comeau, Gerald J.	Nova Scotia	Church Point, N.S.	PC
Cook, Joan	Newfoundland	St. John's, Nfld.	Lib
Cools, Anne C.	Toronto-Centre-York	Toronto, Ont.	Lib
Corbin, Eymard Georges	Grand-Sault	Grand-Sault, N.B.	Lib
Cordy, Jane	Nova Scotia	Dartmouth, N.S.	Lib
Day, Joseph A.	Saint John Kennebecasis	Hampton, N.B.	Lib
De Bané, Pierre, P.C.	De la Vallière	Montreal, Que.	Lib
Di Nino, Consiglio	Ontario	Downsview, Ont.	PC
Doody, C. William	Harbour Main-Bell Island	St. John's, Nfld.	PC
Eyton, J. Trevor	Ontario	Caledon, Ont.	PC
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.	Lib
Ferretti Barth, Marisa	Repentigny	Pierrefonds, Que.	Lib
Finestone, Sheila, P.C.	Montarville	Montreal, Que.	Lib
Finnerty, Isobel	Ontario	Burlington, Ont.	Lib
Fitzpatrick, Ross	Okanagan-Similkameen	Kelowna, B.C.	Lib
Forrestall, J. Michael	Dartmouth and the Eastern Shore	Dartmouth, N.S.	PC
Fraser, Joan Thorne	De Lorimier	Montreal, Que.	Lib
Furey, George	Newfoundland and Labrador	St. John's, Nfld.	Lib
Gauthier, Jean-Robert	Ottawa-Vanier	Ottawa, Ont.	Lib
Gill, Aurélien	Wellington	Mashteuiatsh, Pointe-Bleue, Que.	Lib
Grafstein, Jerahmiel S.	Metro Toronto	Toronto, Ont.	Lib
Graham, Bernard Alasdair, P.C.	The Highlands	Sydney, N.S.	Lib
Gustafson Leonard J.	Saskatchewan	Macoun, Sask.	PC
Hays, Daniel Phillip, <i>Speaker</i>	Calgary	Calgary, Alta.	Lib
Hervieux-Payette, Céline, P.C.	Bedford	Montreal, Que.	Lib
Hubley, Elizabeth M.	Prince Edward Island	Kensington, P.E.I.	Lib
Jaffer, Mobina S. B.	British Columbia	North Vancouver, B.C.	Lib
Johnson, Janis G.	Winnipeg-Interlake	Winnipeg, Man.	PC
Joyal, Serge, P.C.	Kennebec	Montreal, Que.	Lib
Kelleher, James Francis, P.C.	Ontario	Sault Ste. Marie, Ont.	PC
Kenny, Colin	Rideau	Ottawa, Ont.	Lib
Keon, Wilbert Joseph	Ottawa	Ottawa, Ont.	PC
Kinsella, Noël A.	Fredericton-York-Sunbury	Fredericton, N.B.	PC
Kirby, Michael	South Shore	Halifax, N.S.	Lib

SENATORS OF CANADA

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Kolber, E. Leo	Victoria	Westmount, Que.	Lib
Kroft, Richard H.	Manitoba	Winnipeg, Man.	Lib
LaPierre, Laurier L.	Ontario	Ottawa, Ont.	Lib
Lapointe, Jean	Saurel	Magog, Que.	Lib
Lawson, Edward M.	Vancouver	Vancouver, B.C.	Ind
LeBreton, Marjory	Ontario	Manotick, Ont.	PC
Léger, Viola	New Brunswick	Moncton, N.B.	Lib
Losier-Cool, Rose-Marie	Tracadie	Bathurst, N.B.	Lib
Lynch-Staunton, John	Grandville	Georgeville, Que.	PC
Maheu, Shirley	Rougemont	Saint-Laurent, Que.	Lib
Mahovlich, Francis William	Toronto	Toronto, Ont.	Lib
Meighen, Michael Arthur	St. Marys	Toronto, Ont.	PC
Milne, Lorna	Peel County	Brampton, Ont.	Lib
Moore, Wilfred P.	Stanhope St./Bluenose	Chester, N.S.	Lib
Morin, Yves	Lauzon	Quebec, Que.	Lib
Murray, Lowell, P.C.	Pakenham	Ottawa, Ont.	PC
Nolin, Pierre Claude	De Salaberry	Quebec, Que.	PC
Oliver, Donald H.	Nova Scotia	Halifax, N.S.	PC
Pearson, London	Ontario	Ottawa, Ontario	Lib
Pépin, Lucie	Shawinigan	Montreal, Que.	Lib
Phalen, Gerard A.	Nova Scotia	Glace Bay, N.S.	Lib
Pitfield, Peter Michael, P.C.	Ottawa-Vanier	Ottawa, Ont.	Ind
Poulin, Marie-P.	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.	Lib
Poy, Vivienne	Toronto	Toronto, Ont.	Lib
Prud'homme, Marcel, P.C.	La Salle	Montreal, Que.	Ind
Rivest, Jean-Claude	Stadacona	Quebec, Que.	PC
Robertson, Brenda Mary	Riverview	Shediac, N.B.	PC
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.	Lib
Roche, Douglas James.	Edmonton	Edmonton, Alta.	Ind
Rompkey, William H., P.C.	Labrador	North West River, Labrador, Nfld.	Lib
Rossiter, Eileen	Prince Edward Island	Charlottetown, P.E.I.	PC
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.	CA
Setlakwe, Raymond C.	The Laurentides	Thetford Mines, Que.	Lib
Sibbeston, Nick G.	Northwest Territories	Fort Simpson, N.W.T.	Lib
Sparrow, Herbert O.	Saskatchewan	North Battleford, Sask.	Lib
Spivak, Mira	Manitoba	Winnipeg, Man.	PC
Stollery, Peter Alan	Bloor and Yonge	Toronto, Ont.	Lib
Stratton, Terrance R.	Red River	St. Norbert, Man.	PC
Taylor, Nicholas William	Sturgeon	Chestermere, Alta.	Lib
Tkachuk, David	Saskatchewan	Saskatoon, Sask.	PC
Tunney, Jim	Ontario	Grafton, Ont.	Lib
Watt, Charlie	Inkerman	Kuujuaq, Que.	Lib
Wiebe, John	Saskatchewan	Swift Current, Sask.	Lib
Wilson, The Very Reverend Dr. Lois M.	Toronto	Toronto, Ont.	Ind

SENATORS OF CANADA

BY PROVINCE AND TERRITORY

(November 1, 2001)

ONTARIO—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Lowell Murray, P.C.	Pakenham	Ottawa
2 Peter Alan Stollery	Bloor and Yonge	Toronto
3 Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa
4 Jerahmiel S. Grafstein	Metro Toronto	Toronto
5 Anne C. Cools	Toronto-Centre-York	Toronto
6 Colin Kenny	Rideau	Ottawa
7 Norman K. Atkins	Markham	Toronto
8 Consiglio Di Nino	Ontario	Downsview
9 James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie
10 John Trevor Eyton	Ontario	Caledon
11 Wilbert Joseph Keon	Ottawa	Ottawa
12 Michael Arthur Meighen	St. Marys	Toronto
13 Marjory LeBreton	Ontario	Manotick
14 Landon Pearson	Ontario	Ottawa
15 Jean-Robert Gauthier	Ottawa-Vanier	Ottawa
16 Lorna Milne	Peel County	Brampton
17 Marie-P. Poulin	Northern Ontario	Ottawa
18 The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto
19 Francis William Mahovlich	Toronto	Toronto
20 Vivienne Poy	Toronto	Toronto
21 Isobel Finnerty	Ontario	Burlington
22 Jim Tunney	Ontario	Grafton
23 Laurier L. LaPierre	Ontario	Ottawa
24		

SENATORS BY PROVINCE AND TERRITORY

QUEBEC—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 E. Leo Kolber	Victoria	Westmount
2 Charlie Watt	Inkerman	Kuujuuaq
3 Pierre De Bané, P.C.	De la Vallière	Montreal
4 Roch Bolduc	Gulf	Sainte-Foy
5 Gérald-A. Beaudoin	Rigaud	Hull
6 John Lynch-Staunton	Grandville	Georgeville
7 Jean-Claude Rivest	Stadacona	Quebec
8 Marcel Prud'homme, P.C.	La Salle	Montreal
9 W. David Angus	Alma	Montreal
10 Pierre Claude Nolin	De Salaberry	Quebec
11 Lise Bacon	De la Durantaye	Laval
12 Céline Hervieux-Payette, P.C.	Bedford	Montreal
13 Shirley Maheu	Rougemont	Ville de Saint-Laurent
14 Lucie Pépin	Shawinigan	Montreal
15 Marisa Ferretti Barth	Repentigny	Pierrefonds
16 Serge Joyal, P.C.	Kennebec	Montreal
17 Joan Thorne Fraser	De Lorimier	Montreal
18 Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue
19 Sheila Finestone, P.C.	Montarville	Montreal
20 Raymond C. Setlakwe	The Laurentides	Thetford Mines
21 Yves Morin	Lauzon	Quebec
22 Jean Lapointe	Saurel	Magog
23 Michel Biron	Mille Isles	Nicolet
24		

SENATORS BY PROVINCE—MARITIME DIVISION

NOVA SCOTIA—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Bernard Alasdair Graham, P.C.	The Highlands	Sydney
2 Michael Kirby	South Shore	Halifax
3 Gerald J. Comeau	Nova Scotia	Church Point
4 Donald H. Oliver	Nova Scotia	Halifax
5 John Buchanan, P.C.	Halifax	Halifax
6 J. Michael Forrestall	Dartmouth and Eastern Shore .	Dartmouth
7 Wilfred P. Moore	Stanhope St./Bluenose	Chester
8 Jane Cordy	Nova Scotia	Dartmouth
9 Gerard A. Phalen	Nova Scotia	Glace Bay
10 .....	.....	.....

NEW BRUNSWICK—10

THE HONOURABLE		
1 Eymard Georges Corbin	Grand-Sault	Grand-Sault
2 Brenda Mary Robertson	Riverview	Shediac
3 Noël A. Kinsella	Fredericton-York-Sunbury . . .	Fredericton
4 John G. Bryden	New Brunswick	Bayfield
5 Rose-Marie Losier-Cool	Tracadie	Bathurst
6 Fernand Robichaud, P.C.	Saint-Louis-de-Kent	Saint-Louis-de-Kent
7 Viola Léger	New Brunswick	Moncton
8 Joseph A. Day	Saint John Kennebecasis	Hampton
9 .....	.....	.....
10 .....	.....	.....

PRINCE EDWARD ISLAND—4

THE HONOURABLE		
1 Eileen Rossiter	Prince Edward Island	Charlottetown
2 Catherine S. Callbeck	Prince Edward Island	Central Bedeque
3 Elizabeth M. Hubley	Prince Edward Island	Kensington
4 .....	.....	.....

SENATORS BY PROVINCE—WESTERN DIVISION

MANITOBA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Mira Spivak	Manitoba	Winnipeg
2 Janis G. Johnson	Winnipeg-Interlake	Winnipeg
3 Terrance R. Stratton	Red River	St. Norbert
4 Sharon Carstairs, P.C.	Manitoba	Victoria Beach
5 Richard H. Kroft	Manitoba	Winnipeg
6		

BRITISH COLUMBIA—6

THE HONOURABLE		
1 Edward M. Lawson	Vancouver	Vancouver
2 Jack Austin, P.C.	Vancouver South	Vancouver
3 Pat Carney, P.C.	British Columbia	Vancouver
4 Gerry St. Germain, P.C.	Langley-Pemberton-Whistler .	Maple Ridge
5 Ross Fitzpatrick	Okanagan-Similkameen	Kelowna
6 Mobina S.B. Jaffer.	British Columbia	North Vancouver

SASKATCHEWAN—6

THE HONOURABLE		
1 Herbert O. Sparrow	Saskatchewan	North Battleford
2 A. Raynell Andreychuk	Regina	Regina
3 Leonard J. Gustafson	Saskatchewan	Macoun
4 David Tkachuk	Saskatchewan	Saskatoon
5 John Wiebe	Saskatchewan	Swift Current
6		

ALBERTA—6

THE HONOURABLE		
1 Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary
2 Joyce Fairbairn, P.C.	Lethbridge	Lethbridge
3 Nicholas William Taylor.	Sturgeon	Chestermere
4 Thelma J. Chalifoux	Alberta	Morinville
5 Douglas James Roche	Edmonton	Edmonton
6 Tommy Banks	Alberta	Edmonton

SENATORS BY PROVINCE AND TERRITORY

NEWFOUNDLAND—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 C. William Doody	Harbour Main-Bell Island	St. John's
2 Ethel Cochrane	Newfoundland	Port-au-Port
3 William H. Rompkey, P.C.	Labrador	North West River, Labrador
4 Joan Cook	Newfoundland	St. John's
5 George Furey	Newfoundland and Labrador .	St. John's
6 .....	.....	.....

NORTHWEST TERRITORIES—1

THE HONOURABLE		
1 Nick G. Sibbeston	Northwest Territories	Fort Simpson

NUNAVUT—1

THE HONOURABLE		
1 Willie Adams	Nunavut	Rankin Inlet

YUKON TERRITORY—1

THE HONOURABLE		
1 Ione Christensen	Yukon Territory	Whitehorse

ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of November 1, 2001)

*Ex Officio Member

ABORIGINAL PEOPLES

Chair: Honourable Senator Chalifoux

Deputy Chair: Honourable Senator Johnson

Honourable Senators:

Carney,	Christensen,	Johnson,	Pearson,
*Carstairs (or Robichaud),	Cochrane,	Léger,	Sibbeston,
Chalifoux,	Gill,	*Lynch-Staunton (or Kinsella),	St. Germain,
	Hubley,		Tkachuk.

Original Members as nominated by the Committee of Selection

Carney, *Carstairs (or Robichaud), Chalifoux, Christensen, Cochrane, Cordy, Gill,
Johnson, *Lynch-Staunton (or Kinsella), Pearson, Rompkey, Sibbeston, Tkachuk, Wilson.

AGRICULTURE AND FORESTRY

Chair: Honourable Senator Gustafson

Deputy Chair: Honourable Senator Wiebe

Honourable Senators:

Biron,	Day,	*Lynch-Staunton (or Kinsella),	Stratton,
*Carstairs (or Robichaud),	Gustafson,	Oliver,	Tkachuk,
Chalifoux,	Hubley,	Phalen,	Tunney,
	LeBreton,		Wiebe.

Original Members as nominated by the Committee of Selection

*Carstairs (or Robichaud), Chalifoux, Fairbairn, Fitzpatrick, Gill, Gustafson, LeBreton,
*Lynch-Staunton (or Kinsella), Milne, Oliver, Stratton, Taylor, Tkachuk, Wiebe.

BANKING, TRADE AND COMMERCE

Chair: Honourable Senator Kolber

Deputy Chair: Honourable Senator Tkachuk

Honourable Senators:

Angus,	Hervieux-Payette,	*Lynch-Staunton (or Kinsella),	Poulin,
*Carstairs (or Robichaud),	Kelleher,	Meighen,	Setlakwe,
Fitzpatrick,	Kolber,	Oliver,	Tkachuk.
Furey,	Kroft,		

Original Members as nominated by the Committee of Selection

Angus, *Carstairs (or Robichaud), Furey, Hervieux-Payette, Kelleher, Kolber, Kroft,
*Lynch-Staunton (or Kinsella), Meighen, Oliver, Poulin, Setlakwe, Tkachuk, Wiebe.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES**Chair: Honourable Senator Taylor****Deputy Chair: Honourable Senator Spivak****Honourable Senators:**

Adams,	Christensen,	Kelleher,	Sibbeston,
Banks,	Cochrane,	Kenny,	Spivak,
Buchanan,	Eyton,	*Lynch-Staunton (or Kinsella),	Taylor.
*Carstairs (or Robichaud),	Finnerty,		

Original Members as nominated by the Committee of Selection

*Banks, Buchanan, *Carstairs (or Robichaud), Christensen, Cochrane, Eyton, Finnerty, Kelleher, Kenny, *Lynch-Staunton (or Kinsella), Sibbeston, Spivak, Taylor, Watt.*

FISHERIES**Chair: Honourable Senator Comeau****Deputy Chair: Honourable Senator Cook****Honourable Senators:**

Adams,	Comeau,	*Lynch-Staunton (or Kinsella),	Phalen,
Callbeck,	Cook,	Mahovlich,	Robertson,
*Carstairs (or Robichaud),	Jaffer,	Meighen,	Tunney,
	Johnson,		Watt.

Original Members as nominated by the Committee of Selection

*Adams, Callbeck, *Carstairs (or Robichaud), Carney, Chalifoux, Comeau, Cook, *Lynch-Staunton (or Kinsella), Mahovlich, Meighen, Molgat, Moore, Robertson, Watt.*

FOREIGN AFFAIRS**Chair: Honourable Senator Stollery****Deputy Chair: Honourable Senator Andreychuk****Honourable Senators:**

Andreychuk,	*Carstairs (or Robichaud),	Di Nino,	*Lynch-Staunton (or Kinsella),
Austin,	Corbin,	Grafstein,	Setlakwe,
Bolduc,	De Bané,	Graham,	Stollery.
Carney,		Losier-Cool,	

Original Members as nominated by the Committee of Selection

*Andreychuk, Austin, Bolduc, Carney, *Carstairs (or Robichaud), Corbin, De Bané, Di Nino, Grafstein, Graham, Losier-Cool, *Lynch-Staunton (or Kinsella), Poulin, Stollery.*

HUMAN RIGHTS**Chair: Honourable Senator Andreychuk****Honourable Senators:**

Andreychuk,

Beaudoin,

*Carstairs

(or Robichaud),

Cochrane,

Finestone,

Jaffer,

Deputy Chair: Honourable Senator Finestone

Joyal,

Kinsella,

*Lynch-Staunton

(or Kinsella),

Poy,

Taylor,

Wilson.

Original Members as nominated by the Committee of Selection
*Andreychuk, Beaudoin, *Carstairs (or Robichaud), Ferretti Barth, Finestone,*
*Kinsella, *Lynch-Staunton (or Kinsella), Oliver, Poy, Watt, Wilson.*

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION**Chair: Honourable Senator Kroft****Honourable Senators:**

Atkins

Austin,

*Carstairs

(or Robichaud),

Comeau,

De Bané,

Doody,

Forrestall,

Furey,

Gauthier,

Deputy Chair: Honourable Senator

Kenny,

Kroft,

*Lynch-Staunton

(or Kinsella),

Maheu,

Milne,

Murray,

Poulin,

Stollery.

Original Members as nominated by the Committee of Selection
*Austin, *Carstairs (or Robichaud), Comeau, De Bané, DeWare, Doody, Forrestall, Furey, Gauthier,*
*Kenny, Kroft, *Lynch-Staunton (or Kinsella), Maheu, Milne, Murray, Poulin, Stollery.*

LEGAL AND CONSTITUTIONAL AFFAIRS**Chair: Honourable Senator Milne****Honourable Senators:**

Andreychuk,

Beaudoin,

Buchanan,

*Carstairs

(or Robichaud),

Cools,

Fraser,

Grafstein,

Deputy Chair: Honourable Senator Beaudoin

Joyal,

*Lynch-Staunton

(or Kinsella),

Milne,

Moore,

Nolin,

Pearson,

Rivest.

Original Members as nominated by the Committee of Selection
*Andreychuk, Atkins, Beaudoin, Buchanan, *Carstairs (or Robichaud), Cools, Fraser, Grafstein,*
*Joyal, *Lynch-Staunton (or Kinsella), Milne, Moore, Nolin, Pearson.*

LIBRARY OF PARLIAMENT (Joint)**Chair: Honourable Senator Bryden****Deputy Chair:****Honourable Senators:**

Beaudoin,

Cordy,

Oliver,

Poy.

Bryden,

*Original Members agreed to by Motion of the Senate**Beaudoin, Bryden, Cordy, Oliver, Poy.***NATIONAL FINANCE****Chair: Honourable Senator Murray****Deputy Chair: Honourable Senator Finnerty****Honourable Senators:**

Banks,

Comeau,

Finnerty,

Murray,

Bolduc,

Cools,

Furey,

Stratton,

*Carstairs

Doody,

*Lynch-Staunton

Tunney.

(or Robichaud),

Ferretti Barth,

(or Kinsella),

Mahovlich,

*Original Members as nominated by the Committee of Selection**Banks, Bolduc, *Carstairs (or Robichaud), Cools, Doody, Finnerty, Ferretti Barth, Hervieux-Payette, Kinsella, Kirby, *Lynch-Staunton (or Kinsella), Mahovlich, Murray, Stratton.***NATIONAL SECURITY AND DEFENCE****Chair: Honourable Senator Kenny****Deputy Chair: Honourable Senator Forrestall****Honourable Senators:**

Banks,

Day,

LaPierre,

Meighen,

*Carstairs

Forrestall,

*Lynch-Staunton

Nolin,

(or Robichaud),

Kenny,

(or Kinsella),

Wiebe.

Cordy,

*Original Members as nominated by the Committee of Selection**Atkins, *Carstairs (or Robichaud), Cordy, Forrestall, Hubley, Kenny, *Lynch-Staunton (or Kinsella), Meighen, Pépin, Rompkey, Wiebe.*

VETERANS AFFAIRS

(Subcommittee of National Security and Defence)

Chair: Honourable Senator Meighen
Honourable Senators:**Deputy Chair: Honourable Senator Wiebe**

Atkins,	Kenny,	*Lynch-Staunton (or Kinsella),	Meighen,
*Carstairs (or Robichaud),		Pépin,	Wiebe.

OFFICIAL LANGUAGES (Joint)**Chair: Honourable Senator Maheu**
Honourable Senators:**Deputy Chair:**

Beaudoin,	Fraser,	Léger,	Maheu,
Bolduc,	Gauthier,	Losier-Cool,	Setlatkwe.

*Original Members agreed to by Motion of the Senate**Bacon, Beaudoin, Fraser, Gauthier, Losier-Cool, Maheu, Rivest, Setlatkwe, Simard.***RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT****Chair: Honourable Senator Austin**
Honourable Senators:**Deputy Chair: Honourable Senator Stratton**

Andreychuk,	Di Nino,	Kroft,	Pitfield,
Austin,	Gauthier,	Losier-Cool,	Poulin,
Bryden,	Grafstein,	*Lynch-Staunton (or Kinsella),	Robertson,
*Carstairs (or Robichaud),	Joyal,	Murray,	Rossiter, Stratton.

*Original Members as nominated by the Committee of Selection**Andreychuk, Austin, Bryden, *Carstairs (or Robichaud), DeWare, Di Nino, Gauthier, Grafstein, Hervieux-Payette, Joyal, Kroft, Losier-Cool, *Lynch-Staunton (or Kinsella), Murray, Poulin, Rossiter, Stratton.*

SCRUTINY OF REGULATIONS (Joint)

Chair: Honourable Senator Hervieux-Payette

Deputy Chair:

Honourable Senators:

Bryden,

Hervieux-Payette,

Kinsella,

Nolin.

Finestone,

Jaffer,

Moore,

Original Members agreed to by Motion of the Senate

Bacon, Bryden, Finestone, Hervieux-Payette, Kinsella, Moore, Nolin.

SELECTION

Chair: Honourable Senator Rompkey

Deputy Chair: Honourable Senator Stratton

Honourable Senators:

Austin,

Corbin,

Kinsella,

Robertson,

*Carstairs

Fairbairn,

LeBreton,

Rompkey,

(or Robichaud),

Graham,

*Lynch-Staunton
(or Kinsella),

Stratton.

Original Members agreed to by Motion of the Senate

*Austin, *Carstairs (or Robichaud), Corbin, DeWare, Fairbairn, Graham, Kinsella
LeBreton, *Lynch-Staunton (or Kinsella), Mercier, Murray.*

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

Chair: Honourable Senator Kirby

Deputy Chair: Honourable Senator LeBreton

Honourable Senators:

Callbeck,

Di Nino,

Léger,

Pépin,

*Carstairs

Keon,

*Lynch-Staunton
(or Kinsella),

Roberston,

(or Robichaud),

Kirby,

Roche.

Cook,

LeBreton,

Maheu,

Morin,

Original Members as nominated by the Committee of Selection

*Callbeck, *Carstairs (or Robichaud), Cohen, Cook, Cordy, Fairbairn, Graham, Johnson,
Kirby, LeBreton, *Lynch-Staunton (or Kinsella), Pépin, Robertson, Roche.*

**ON THE PRESERVATION AND
PROMOTION OF A SENSE OF CANADIAN COMMUNITY**

(Subcommittee of Social Affairs, Science and Technology)

**Chair: Honourable Senator
Honourable Senators:**

*Carstairs
(or Robichaud),

Cook,
Cordy,

Deputy Chair: Honourable Senator

Kirby,
LeBreton,

*Lynch-Staunton
(or Kinsella),
Roberston.

TRANSPORT AND COMMUNICATIONS

**Chair: Honourable Senator Bacon
Honourable Senators:**

Adams,
Bacon,
Biron,
Callbeck,

*Carstairs
(or Robichaud),
Eyton,
Finestone,
Fitzpatrick,

Deputy Chair: Honourable Senator Oliver

Gill,
Gustafson,
LaPierre,
*Lynch-Staunton
(or Kinsella),
Oliver,
Spivak,
Taylor.

Original Members as nominated by the Committee of Selection

*Adams, Angus, Bacon, Callbeck, *Carstairs (or Robichaud), Christensen, Eyton, Finestone,
Fitzpatrick, Forrestall, *Lynch-Staunton (or Kinsella), Rompkey, Setlakwe, Spivak.*

THE SPECIAL SENATE COMMITTEE ON ILLEGAL DRUGS

**Chair: Honourable Senator Nolin
Honourable Senators:**

*Carstairs
(or Robichaud),

Carney,
Kenny,

Deputy Chair: Honourable Senator Kenny

*Lynch-Staunton
(or Kinsella),
Maheu,
Nolin.

Original Members as agreed to by Motion of the Senate

*Banks, *Carstairs (or Robichaud), Kenny, *Lynch-Staunton (or Kinsella), Maheu, Nolin, Rossiter.*

THE SPECIAL SENATE COMMITTEE ON THE SUBJECT MATTER OF BILL C-36**Chair: Honourable Senator Fairbairn****Honourable Senators:**

Andreychuk,

Bacon,

Beaudoin,

*Carstairs

(or Robichaud),

Fairbairn,

Finestone,

Fraser,

Deputy Chair: Honourable Senator Kelleher

Jaffer,

Kelleher,

Kenny,

*Lynch-Staunton

(or Kinsella),

Lynch-Staunton,

Murray,

Stollery.

Original Members as agreed to by Motion of the Senate

*Andreychuk, Bacon, Beaudoin, *Carstairs (or Robichaud), Fairbairn, Fraser, Furey, Jaffer, Kelleher, Kenny, *Lynch-Staunton (or Kinsella), Murray, Stollery, Tkachuk.*

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(1st Session, 37th Parliament)
Thursday, November 1, 2001

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act respecting marine liability, and to validate certain by-laws and regulations	01/01/31	01/01/31	—	—	—	01/01/31	01/05/10	6/01
S-3	An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts	01/01/31	01/02/07	Transport and Communications	01/05/03 amended 01/05/09	3	01/05/10	01/06/14	13/01
S-4	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	01/01/31	01/02/07	Legal and Constitutional Affairs	01/03/29	0 + 1 at 3rd	01/04/26	01/05/10	4/01
S-5	An Act to amend the Blue Water Bridge Authority Act	01/01/31	01/02/07	Transport and Communications	01/03/01	0	01/03/12	01/05/10	3/01
S-11	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	01/02/06	01/02/21	Banking, Trade and Commerce	01/04/05	17 + 1 at 3rd	01/05/02 Senate agreed to Commons amendments 01/06/12	01/06/14	14/01
S-16	An Act to amend the Proceeds of Crime (Money Laundering) Act	01/02/20	01/03/01	Banking, Trade and Commerce	01/03/22	0	01/04/04	01/06/14	12/01
S-17	An Act to amend the Patent Act	01/02/20	01/03/12	Banking, Trade and Commerce	01/04/05	0	01/05/01	01/06/14	10/01
S-23	An Act to amend the Customs Act and to make related amendments to other Acts	01/03/22	01/05/03	National Finance	01/05/17	11 + 2 at 3rd (01/06/06)	01/06/07	01/10/25	25/01
S-24	An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence	01/03/27	01/04/05	Aboriginal Peoples	01/05/10	0	01/05/15	01/06/14	8/01
S-31	An Act to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	01/09/19	01/10/17	Banking, Trade and Commerce	01/10/25	0	01/11/01		

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-33	An Act to amend the Carriage by Air Act	01/09/25	01/10/16	Transport and Communications					
S-34	An Act respecting royal assent to bills passed by the Houses of Parliament	01/10/02	01/10/04	Rules, Procedures and the Rights of Parliament					

**GOVERNMENT BILLS
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Employment Insurance Act and the Employment Insurance (Fishing) Regulations	01/04/05	01/04/24	Social Affairs, Science and Technology	01/05/03	0	01/05/09	01/05/10	5/01
C-3	An Act to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act	01/05/02	01/05/10	Energy, the Environment and Natural Resources	01/06/06	0	01/06/12	01/06/14	18/01
C-4	An Act to establish a foundation to fund sustainable development technology	01/04/24	01/05/02	Energy, the Environment and Natural Resources	01/06/06	0	01/06/14	01/06/14	23/01
C-6	An Act to amend the International Boundary Waters Treaty Act	01/10/03							
C-7	An Act in respect of criminal justice for young persons and to amend and repeal other Acts	01/05/30	01/09/25	Legal and Constitutional Affairs					
C-8	An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions	01/04/03	01/04/25	Banking, Trade and Commerce	01/05/31	0	01/06/06	01/06/14	9/01
C-9	An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act	01/05/02	01/05/09	Legal and Constitutional Affairs	01/06/07	0	01/06/13	01/06/14	21/01
C-11	An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger	01/06/14	01/09/27	Social Affairs, Science and Technology	01/10/23	0	01/10/31	01/11/01	27/01
C-12	An Act to amend the Judges Act and to amend another Act in consequence	01/04/24	01/05/09	Legal and Constitutional Affairs	01/05/17	0	01/05/29	01/06/14	7/01
C-13	An Act to amend the Excise Tax Act	01/04/24	01/05/01	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	15/01
C-14	An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts	01/05/15	01/05/30	Transport and Communications	01/10/18	0	01/10/31	01/11/01	26/01
C-15A	An Act to amend the Criminal Code and to amend other Acts	01/10/23							
C-17	An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act	01/05/15	01/05/30	National Finance	01/06/07	0	01/06/11	01/06/14	11/01
C-18	An Act to amend the Federal-Provincial Fiscal Arrangements Act	01/05/09	01/05/31	National Finance	01/06/12	0	01/06/12	01/06/14	19/01
C-20	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	1/01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	2/01
C-22	An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act	01/05/15	01/05/30	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	17/01
C-24	An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts	01/06/14	01/09/26	Legal and Constitutional Affairs					
C-25	An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts	01/06/12	01/06/12	Agriculture and Forestry	01/06/13	0	01/06/14	01/06/14	22/01
C-26	An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco	01/05/15	01/05/17	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	16/01
C-28	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	01/06/11	01/06/12	—	—	—	01/06/13	01/06/14	20/01
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/06/13	01/06/14	—	—	—	01/06/14	01/06/14	24/01
C-31	An Act to amend the Export Development Act and to make consequential amendments to other Acts	01/10/30							
C-32	An Act to implement the Free Trade Agreement between the Government of Canada and the Government of the Republic of Costa Rica	01/10/30							
C-34	An Act to establish the Transportation Appeal Tribunal of Canada and to make consequential amendments to other Acts	01/10/30							

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
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SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5	referred back to Committee 01/10/23		
S-7	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	01/01/31	01/02/07	Transport and Communications	01/06/05	0	01/06/07		

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-8	An Act to maintain the principles relating to the role of the Senate as established by the Constitution of Canada (Sen. Joyal, P.C.)	01/01/31	01/05/09	Rules, Procedures and the Rights of Parliament					
S-9	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	01/01/31							
S-10	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Gratstein)	01/01/31	01/02/08		--	--	01/02/08		
S-12	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	01/02/07	01/03/27	Social Affairs, Science and Technology					
S-13	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	01/02/07	01/05/02	Rules, Procedures and the Rights of Parliament (Committee discharged from consideration—Bill withdrawn 01/10/02)					
S-14	An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	01/02/07	01/02/20	Social Affairs, Science and Technology	01/04/26	0	01/05/01		
S-15	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	01/02/07	01/03/01	Energy, the Environment and Natural Resources	01/05/10	0	01/05/15	Bill withdrawn pursuant to Commons Speaker's Ruling 01/06/12	
S-18	An Act to Amend the Food and Drugs Act (clean drinking water) (Sen. Gratstein)	01/02/20	01/04/24	Social Affairs, Science and Technology (withdrawn) 01/05/10					
S-19	An Act to amend the Canada Transportation Act (Sen. Kirby)	01/02/21	01/05/17	Energy, the Environment and Natural Resources					
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	01/03/12		Transport and Communications					
S-21	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	01/03/13		Subject-matter 01/04/26					
S-22	An Act to provide for the recognition of the Canadian Horse as the national horse of Canada (Sen. Murray, P.C.)	01/03/21	01/06/11	Social Affairs, Science and Technology	01/10/31	4			
S-26	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	01/05/02	01/06/05	Agriculture and Forestry					
S-29	An Act to amend the Broadcasting Act (review of decisions) (Sen. Gauthier)	01/06/11	01/10/31	Transport and Communications					

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-30	An Act to amend the Canada Corporations Act (corporations sole) (Sen. Atkins)	01/06/12							
S-32	An Act to amend the Official Languages Act (fostering of English and French) (Sen. Gauthier)	01/09/19							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (Sen. Kroft)	01/03/29	01/04/04	Legal and Constitutional Affairs	01/04/26	1	01/05/02	01/06/14	
S-27	An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	
S-28	An Act to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	

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(HANSARD)

Tuesday, November 6, 2001

THE HONOURABLE DAN HAYS
SPEAKER



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THE SENATE

Tuesday, November 6, 2001

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

[Translation]

THE LATE HONOURABLE SOLANGE CHAPUT-ROLAND, O.C., O.N.Q.

TRIBUTES

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, there are many personalities whose mere name triggers contradictory reactions and not always positive ones. Exceptions to that rule are few and far between, particularly in artistic and political endeavours.

Solange Chaput-Rolland, who passed away last week, is one of the most notable examples of that latter, exceptional, category. All of the commentaries since her passing, and they are still forthcoming, are unanimous about her extraordinary contribution to her province and her country.

Author, editorial writer, senator, member of commissions of inquiry, unequalled champion of Canadian unity, passionate Quebecer always, she brought to all of those pursuits a firmness of resolve and a vigour that never ceased to arouse astonishment and admiration in all, even those who might be furiously opposed to her stand.

Solange joined us at the invitation of Prime Minister Mulroney, and was a faithful member of the Conservative caucus for close to six years. She was not a partisan in the true meaning of that word. As I said when she was about to leave this place, Solange's true party was Canada, and her party policy was unity.

With her exceptional intelligence and the most eloquent of voices and pens, Solange focussed all of her talents and her entire life first and foremost on promoting Canada, which could not have been dearer to her heart, and her province, which was more to her than just one essential component of our country; it was more of a guarantee of its survival.

To her children, and to all the family, I extend my most heartfelt condolences.

Hon. Lise Bacon: Honourable senators, I rise to speak with the deepest of emotions, to pay tribute to the Honourable Solange Chaput-Rolland, who has been taken from the love of her family and friends, and the friendship of all who had the privilege of knowing her.

I do not want to trace the very extensive career path of Solange Chaput-Rolland. Suffice it to say that her entire existence was

devoted to communication in one form or another. With her great good sense and the certainty of her views, she was able to find solutions that were right and equitable, and her opinions were always well respected. Full of strength and vigour, she seemed to be tireless, and immune to fatigue. She loved to be in the front lines of any battle.

I will always honour and cherish her memory. To Suzanne and Claude, to her grandchildren and her family, I offer my most sincere condolences. May your sorrow be tempered by the sympathies of all those who knew her, and all of her friends who appreciated her.

Hon. Jean-Claude Rivest: Honourable senators, I should like to echo my colleagues' tributes to Solange Chaput-Rolland.

When she was elected as an MNA, I welcomed her to the Quebec National Assembly. When I arrived here in the Senate, she honoured me by acting as my sponsor. My relationship of a good many years with Solange was marked by friendship and affection. Above and beyond her tremendous personal and human qualities, she had a real sense of attachment to Canada.

Solange said that the first time she visited Canada, as a young girl, she left as a Canadian and returned as a French Canadian. Sometime later, during the Pepin-Robarts commission, she said that she left as a French Canadian and returned as a Quebecer. However, she insisted on the fact that being Canadian, French Canadian or Quebecer in no way diminished her sense of belonging to the country, since each of these attributes was a manifestation of the richness and diversity of Canada, towards which Solange always felt a deep attachment.

• (1410)

Solange always felt a true affection toward the people of Quebec as a whole. During the 1980 referendum, while campaigning for the NO side, she was the most requested speaker by NO committees across the province. Senators Bacon and Lynch-Staunton spoke of her talent as a communicator. Beyond communication, there was a great love story between Quebecers and Solange Chaput-Rolland, a story that will endure beyond her death. Solange's memory, quite clearly, will live on forever in her words and deeds.

[English]

Hon. Sheila Finestone: Honourable senators, I rise to add my tribute to former senator Solange Chaput-Rolland and extend sympathy to her family, in particular to Suzanne Monange, her daughter. May the wonderful memories they have of their extraordinary mother sustain them at this time.

Although I did not have the privilege of serving with her in the Senate, I did have the privilege of knowing Solange as part of the Quebec Liberal Party when I served as the Attaché politique to Claude Ryan during the first Quebec referendum. She was a tireless, eloquent speaker, travelling the length and breadth of Quebec, talking as both a very proud Quebec nationalist and a staunch Canadian federalist.

I knew Solange first as the author of books, particularly her exchanges with Gwendolyn Graham in *Chère Ennemie*. Senator Chaput-Rolland was not just a gifted woman with a pen; she was a role model for women in the world of communications.

[Translation]

She was a woman who dared, who always spoke candidly. Her vigorous writing brought her many distinctions. She was voted woman of the year by the Canadian Press in 1968 and won the Don MacArthur Award in 1975 for her work and radio coverage of the Israeli war.

She served on the Pepin-Robarts commission on Canadian unity. She served as a member of the National Assembly between 1979 and 1981 and was appointed to the Senate in 1988.

She was a member of the Canada Council and served on the boards of directors of the University of Montreal and the Fondation Lionel-Groulx. In 1974, she founded the Judith Jasmin award in recognition of the best political writing in the media. She became an officer of the Order of Canada in 1975 and received the Ordre du Québec in 1985.

[English]

In 1983, she became the first Québécoise to receive an honorary doctorate from Queen's University in Kingston; and in 1987, she was named to be among the 50 most important figures in the field of communications by her peers in l'Association internationale des Femmes écrivaines et journalistes.

[Translation]

She was a truly honourable person, a woman of many interests.

[English]

Honourable senators, the list of honours heaped upon this exceptional woman goes on and on. It is a list known to many, since it is part of the public record. My memory is that she was involved in every aspect of public life.

Again, what was my personal impression? To me, she was a dynamic woman of heart and conviction, a woman who was a pioneer for the rights of women, and a woman who displayed a deep commitment and indefatigable efforts in supporting the NO forces in the 1980 referendum on sovereignty.

She was not only a committed federalist but also a fiercely proud Quebecer, demonstrating to all that it is possible to be

both. As such, Solange's life stands as a dynamic measure of the extent to which Canada's strength can only grow when it embraces its diversity, and gives voice to its soul.

[Translation]

Hon. Gérald-A. Beaudoin: Honourable senators, I first saw the work of Solange Chaput-Rolland on the Pepin-Robarts Commission and then as a colleague in the Senate.

We were appointed to the Senate the same day, together with Senators Roch Bolduc and Jean-Marie Poitras. There were four of us, and it was the time of the Meech Lake Accord.

Madam Chaput-Rolland had an innate ability to communicate. She made good use of this gift in her career as a journalist and gave of herself in causes involving equality and freedom. Through her good offices, we were often given greater consideration by the media, something not to be sniffed at, I would add.

Madam Chaput-Rolland came to the Senate to defend her ideas. These ideas had germinated over the course of the long discussions that accompanied the drafting of the Pepin-Robarts report and it became apparent in the Meech Lake Accord, which she vigorously defended.

I can say that the report would have been different, had she not been a member of the commission.

A great friend of the arts, print media, radio, television and literature, she was an example of what the Senate could contribute to Canadian culture. Each of her speeches was marked by finesse and elegance. No one can say she failed to do everything in her power to make the upper house known and respected. She did us the great honour of spending a few years here in the Senate. I offer her family my deepest condolences.

[English]

Hon. J. Michael Forrestall: Honourable senators, I want only to join in the tributes being paid this afternoon to a person who was, to me, a very gracious and warm Canadian and who, on a number of visits to her office in the Victoria Building, introduced me, in a way no one else had been able to before, to the spirit of French Canada — my Canada; her Canada.

During her last year here, after returning from our Christmas vacation, we were boarding the bus. It was a sloppy, cold day to return to the Senate. She said, "Michael, what did you do over the Christmas recess?" I told her how I had enjoyed the holiday with my grandchildren and my children. I talked a bit about the weather. She said, "What else did you do?" I looked at her and I said, "Senator, I started to read a book." It was a history book, actually. I said, "Senator, what did you do?" She said, "Michael, I wrote one."

My condolences go to her family. She will always remain in my thoughts for educating me about a very rich part of my country.

[Translation]

Hon. Mira Spivak: Honourable senators, Solange Chaput-Rolland was a great lady from Quebec. She was an emotional woman who bothered politicians.

She took an interest in many things: improving the status of women in public life, socio-economic issues and national issues. Solange Chaput-Rolland was my next door neighbour for several years. I remember her as a woman who knew how to transmit her joie de vivre.

She was my Quebec history teacher and it is with great humour that she told me anecdotes about René Lévesque and Quebec politics. This is a huge loss for Canada and Quebec. Rest in peace, Solange!

• (1420)

Hon. Serge Joyal: Honourable senators, I should like to mention two things in memory of Senator Solange Chaput-Rolland. You will have noticed that she kept her surname, Chaput. Rolland was her husband's name. She made that decision at a time when women were not active in politics and in communications.

One of her contemporaries, a great lady, had to use a man's name to get her writings published in a newspaper. I am referring to Madam Jean Després. Her real name was not Jean Després, but Laurette Auger. If she had been identified as a woman, newsrooms would have refused to publish her articles at the time.

Madam Chaput-Rolland stood up for women in public life at a time when they were not accepted. She did so not only as a woman, but with the sensitivity of a woman. At the time, one of the ways used in certain circles to set aside Madam Chaput-Rolland's remarks was to say that they were too emotional. Women who were entering politics had no choice but to pattern their behaviour on that of men.

[English]

There were no feminine role models at that time. Solange Chaput-Rolland has always maintained the participation of women as women in politics. If there is a house in which the situation is different, it is this house, because there are not only one, two, or three women, but they are of sufficient number that women can be women when they participate in public debate. This is one of the contributions that Senator Chaput-Rolland made to Canadian public life.

Honourable senators, Solange Chaput-Rolland's second contribution was her role in the first referendum. I am certain that all senators remember "les Yvette." If the result of the first referendum was important in affirming the conviction of the future of the country, it was because of the role of les Yvette. Who were at the forefront of les Yvette? There was former Senator Thérèse Casgrain; Madam Claude Ryan, who played a fantastic role in putting the group together; former Senator

Solange Chaput-Rolland; and Senator Lise Bacon, who sits with us today. This group of women will be written about in the history books of Canada. These women saved Canada in 1980 because of their dedication to affirm the values of the Canadian family and the sense of sharing that we have for this great country. For that vision, we are indebted to Solange Chaput-Rolland and her contemporaries for their efforts in to ensure a bright future for Canadians.

SENATORS' STATEMENTS

PRINCE EDWARD ISLAND

FEDERATION OF AGRICULTURE—FARM SHARE LUNCHEON TO REFLECT CHEAP FOOD POLICY

Hon. Elizabeth Hubley: Honourable senators, the Prince Edward Island Federation of Agriculture, together with local commodity boards, recently hosted a gourmet luncheon in Charlottetown. The purpose of this farm share luncheon was to raise public awareness with respect to agriculture, and more particularly, to the low prices paid to farmers for the food they produce.

Honourable senators, I am told it was a meal fit for a King or a Queen. Appetizers included French bread with bean dip, grilled pork with cranberry juice, or greens and Scotch eggs. The main course consisted of a medley of grilled chicken and beef tenderloin in port wine juice, roast garlic mashed potatoes and a variety of fresh market vegetables. For dessert, the invited guests were treated to French cream cheesecake, strawberries with whipped cream, and plenty of Island milk to drink. It does sound rather good, does it not?

If such a meal were purchased in a restaurant, one would expect it to cost about \$35 or more after taxes and gratuities. However, the Federation of Agriculture offered this same gourmet meal for \$1.44, or what the Canadian farmer would have been paid for this food. That is right. The farmer's paltry share of this \$35 meal was only \$1.44.

Honourable senators, I believe this event vividly demonstrates the chronic plight of our farmers who have been victims of a cheap food policy in our country for decades. It is often argued that farmers receive too much in the way of subsidies and benefits from government, that crop failure is always followed by a cash bailout and that the farming community somehow has been preferentially treated over the years.

Nothing could be further from the truth, honourable senators. The grim reality is that most sectors of the agriculture industry have no income stability and that the family farm is a vanishing enterprise throughout Canada. In Prince Edward Island, only the dairy industry offers a degree of income stability as a result of supply management, and a number of farms has decreased by more than twice the national average.

In the entire scheme of food production, processing and distributing, it is the farmer who receives the smallest economic benefit; yet it is the farmer's expertise and labour that make food available to the population.

Farmers in Western Canada have been suffering through a terrible drought. This past year, potato farmers in my own province were unexpectedly shut out of a major international market. This was followed by a poor growing season.

Farming is an extremely risky business that requires high levels of capital investment, tremendous knowledge and skill, hard work and considerable intestinal fortitude. Without our farmers, Canada's food supply would be nonexistent.

I should like to commend the Prince Edward Island Federation of Agriculture for organizing the farm share luncheon in Charlottetown as an innovative way to increase the public's awareness of how little our farmers receive for the food that they grow.

NOVA SCOTIA

LUNENBURG—BURNING OF ST. JOHN'S ANGLICAN CHURCH

Hon. Wilfred P. Moore: Honourable senators, late in the night of October 31 or early in the morning of November 1, some person or persons tore a hole in the heart of Lunenburg, Nova Scotia. They did so by deliberately setting afire St. John's Anglican Church, a fire that raged for one-half day and consumed a structure of absolute beauty and peacefulness, a structure of refuge, a structure of tranquillity and of steadfast worship. An elderly parishioner told me yesterday that he has not seen the mood of the town so darkened since the days of World War II.

St. John's was built in 1753 by German Protestants who were sent to Lunenburg to settle the seaport. Those builders were shipwrights, millers, fishermen and farmers. Their work resulted in a wonderful church with wooden knees, arches and rounded ceilings, which moved visitors to remark that it was like being inside a ship.

Honourable senators, for nearly 250 years, St. John's was the object of devout care and stewardship. It was a place of assembly, celebration and remembrance for our forefathers and today's parish families, including my own. Little remains of this National Historic Site — the second oldest Anglican church in Canada.

Honourable senators, I did say "little." I did not say "nothing." Remarkably, the font, the altar, the processional cross and some other precious pieces survived.

We are hopeful that the authorities will apprehend those who committed this senseless act of destruction and that the full weight of the law will be brought to bear upon them. We are prayerful that St. John's will rise again. We are confident that her parishioners harbour the will and can harvest the resources from across Canada to build a replica around those surviving pieces of worship.

[Senator Hubley]

JUSTICE

CHARTER OF RIGHTS AND FREEDOMS FOR CHILDREN

Hon. Laurier L. LaPierre: Honourable senators, on Friday, October 26, 2001, a jury in Stratford, Ontario, acquitted Carline Vandenelsen of kidnapping her three children through a defence argument known as "virtue of necessity."

● (1430)

Although I do not wish to question the good faith of the jury, there is no doubt in my mind that Carline Vandenelsen is a criminal who should be in jail. She abused her children by traumatizing them, shoving them in the trunk of a car as she crossed the frontier between Canada and the United States and between the United States and Mexico. This irresponsible and criminal act caused the children that she is supposed to love great fear, anxiety and stress. Moreover, she endangered their lives by her criminal negligence for their safety and well-being. Finally, she deprived them for months of the love of their father, their schoolmates, their extended family and their friends. One of her children testified that he feared he would never see his father again.

Honourable senators, it is my fervent hope that the family court judge who designed her custody in the first place will so rule as to protect her children from any contact with their criminal mother.

What this sad event teaches me is not so much the strange ways of our judicial system as the need we have as a society to protect our children from the madness of some of their parents, and others. Honourable senators, it is for this reason that we need a specific Charter of Rights and Freedoms for children embodied in the Canadian Charter of Rights and Freedoms of which we are so justly proud. Only in this way will criminals like Vandenelsen, and others, for instance, like those in Aylmer, Ontario, who beat their children in the name of a certain god, will be dealt with as they deserve.

[Translation]

HEALTH

SERVICES IN FRENCH

Hon. Jean-Robert Gauthier: Honourable senators, as for all Canadians, health services are a major concern for minority French-language communities.

The Fédération des communautés francophones et acadienne coordinated a serious study of the issue of French-language services entitled: "Santé en français — Pour un meilleur accès à des services de santé en français." The FCFA released this important study on improving access to French-language health services in June 2001. It should be noted that the federal Minister of Health funded the study, which was part of the work done by the Comité consultatif des communautés francophones en situation minoritaire.

If we are interested in strengthening the fabric of our society, we must include the Francophone and Acadian communities in the health care reforms now underway throughout the country. The situation is becoming increasingly urgent, because there are one million French-speaking Canadians who are being left by the wayside. The report shows that francophones in minority situations are less healthy than their English-speaking counterparts.

The study gives examples of initiatives which have helped increase access to French-language health services in certain regions. It refers to them as levers. Let us look at a few of them.

First, there is information. We must study francophones' state of health in order to determine their needs, draw up lists of French-speaking physicians and other stakeholders, adapt certain awareness and promotion campaigns to the regional needs of French-speaking populations, and produce material in French.

Second, there is technology. We must develop the potential of telemedicine, adapt and implement call centres, and develop a Web portal for French-speaking professionals.

Third, a network is required. We must implement structures facilitating coordination and organization of the French-language health services environment, develop linkages between health care institutions, develop partnerships and alliances between the health care network and other networks such as those of the educational system, municipalities and community organizations.

Fourth, there is training and recruitment. We must support campaigns promoting careers in the health care sector, decentralize training in these careers, provide incentives to encourage francophone stakeholders to settle in French-language communities, and develop strategies to recruit outside the region and outside the country.

Fifth, the lever known as intake centres. Multiservice centres need to be put in place, French-language intake structures need to be developed, and francophones need to be given control of these intake centres.

To conclude, the study affirms that the vitality of Francophone and Acadian communities depends, in part, on the population's health. I quote from page 58 of the report:

Given its importance to individuals and communities, health should be an issue of major concern to federal and provincial authorities, relevant institutions in the health and education sectors, as well as each and every minority francophone community.

Honourable senators, I should like to remind you that this past weekend, more than 200 stakeholders from across Canada came to study this report in Moncton, New Brunswick.

[English]

AGRICULTURE AND FORESTRY

REPORT RECOMMENDING MEETING OF COMMITTEE OF THE WHOLE TO HEAR MINISTER OF AGRICULTURE AND AGRI-FOOD

Hon. David Tkachuk: Honourable senators, last week, while I was away and during the debate on the Agriculture and Forestry Committee report calling for the Minister of Agriculture to appear before a Committee of the Whole Senate, some honourable senators said that I showed disrespect for a minister of the Crown because the report said that he had cancelled his appearance.

In retaliation, Liberal committee members passed a motion in committee asking that the committee apologize to the minister because of the word "cancel." I was not there to speak for myself, and that is my fault. I had other business to attend to. However, I should like to make it clear that I believe that the minister was to attend that meeting. Through the efforts of the steering committee led by Senator Gustafson, we have been trying to get the minister to attend since this past August.

Honourable senators, I also want to point out that not one Liberal member — not one — contradicted my use of that word during debate in committee. If they had, we could have amended the motion in committee, and I would have been fully supportive if I were convinced that the minister had not confirmed his appearance. My motion was made out of concern for the desperate plight and problems facing agriculture today not only in Western Canada but also in many parts of the country.

As members of the opposition in this place, we get few opportunities to get the attention of the government. I believe that merely confirming government policy is not necessarily an act of respect, and that is neither my job nor my role as a senator on this side of the chamber. I was disappointed that the government side did not use this motion as an opportunity to respond to the problems facing agriculture. Instead, they used their majority of over 60 senators to respond to the fact that they were defeated in committee.

Honourable senators, I am not apologizing for doing my job — not to the minister and not to the members of the committee from the government side. I showed no disrespect to the Minister of Agriculture. He is an elected member. I have been in politics a long time and one thing I do respect is the ability of someone being elected by their peers. They earn our respect by that alone. My job and the job of Parliament, when that elected member becomes a member of the executive, is to hold him or her to account.

The real disrespect that has been shown is this government's inaction regarding the current circumstances facing farmers in Canada. A copy of this statement is being sent to the Minister of Agriculture and to *The Western Producer*.

[Translation]

ROUTINE PROCEEDINGS

CARRIAGE BY AIR ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Lise Bacon, Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Tuesday, November 6, 2001

The Standing Senate Committee on Transport and Communications has the honour to present its

SEVENTH REPORT

Your Committee, to which was referred Bill S-33, An Act to amend the Carriage by Air Act, has, in obedience to the Order of Reference of Tuesday, October 16, 2001, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LISE BACON
Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

• (1440)

On motion of Senator Fitzpatrick, and notwithstanding section 58(1)(b) of the *Rules of the Senate*, bill placed on the Orders of the Day for third reading later this day.

[English]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SEVENTH REPORT OF COMMITTEE PRESENTED

Hon. Jack Austin, Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented the following report:

Tuesday, November 6, 2001

The Standing Committee on Rules, Procedures and the Rights of Parliament (*formerly entitled the Standing Committee on Privileges, Standing Rules and Orders*) has the honour to present its

SEVENTH REPORT

1. On March 22, 2001, your Committee received the following order of reference from the Senate:

That the matter of officially recognizing a third party, within the procedures of the Senate, be referred to the Standing Committee on Privileges, Standing Rules and Orders for consideration and report.

2. Your Committee has been considering this issue for several months. On May 9, 2001, Senator Gerry St. Germain testified before your Committee on his proposal of officially recognizing a third party in the Senate. Members of your Committee have had several discussions of the issues related to such recognition.
3. A parliamentary system is based on there being a Government and an Opposition. This is reflected in the physical layout of many legislative chambers, including that of the Senate. In addition, the experience of the Senate has been the existence of two predominant parties, which have alternated in Government and Opposition. This, in turn, reflects the basic history of Canadian politics at the federal level, at least until recently.
4. The *Rules of the Senate*, in turn, are premised on there being only two parties in the Senate. Indeed, since Confederation, the vast majority of Senators have belonged to the Liberal or Progressive Conservative parties. While there have been, and are, independent Senators — and, more rarely, Senators belonging to other parties — in the upper chamber, the issues of recognition and the rights of third parties have not arisen. In the British House of Lords, there is a large group of “cross benchers,” who are Peers who are not affiliated with any political party, but who have received recognition as a group.
5. Traditionally, the procedures in parliamentary systems have not acknowledged the existence of political parties. Within a parliamentary context, the grouping of members was considered largely a private matter. It was not until the latter part of the nineteenth century that parties in the modern sense coalesced and emerged. Electorally, in Canada, parties were not registered, nor was the political affiliation of candidates shown on ballots, until the 1970s.
6. Since the early 1950s in the House of Commons, there have been a series of rulings which granted limited rights to parties other than the Government and Official Opposition. In 1963, the *Senate and House of Commons Act* (now the *Parliament of Canada Act*) was amended so that party leaders in the House other than the Prime Minister and the Leader of the Opposition would receive an additional allowance. According to the amendment, those Members who led a party with a “recognized membership of 12 or more persons in the House of Commons” would be entitled to the additional stipend. House Leaders and Whips of such parties are also entitled to additional allowances. This figure of 12 has come to be used for many other purposes. Since 1968, officially-recognized parties in the House have received funds for research purposes.

7. Clearly, political parties have emerged as fundamental to political life and the operations of Parliament. Since 1997, there have been five recognized parties in the House of Commons. Moreover, Canada is experiencing an unprecedented period of upheaval with respect to political parties.
8. Against this background, your Committee believes that it is appropriate and prudent for the Senate to re-examine its procedures and practices with respect to the recognition of parties. We have carefully considered the submissions of Senator St. Germain, as well as the arguments put forth by other Senators, both in the Chamber and in the Committee. We have also reviewed the procedures and policies of other legislative bodies, including the House of Commons, provincial legislatures and the British House of Lords.
9. Your Committee has been very mindful of the role and the traditions of the Senate of Canada. Under the Canadian Constitution, the role of the Senate is, in part, to act as an independent check on the elected lower chamber and the executive. It is not a confidence chamber, in that a defeat of Government legislation does not necessarily lead to the Government's resignation. The Government party does not always have a majority in the Senate. While the Government of the day plays a significant role in determining the business of the Senate, it can face significant constraints on its ability to control the legislative agenda. The concept of the Official Opposition as a party that, in the event of the resignation of the Government, is willing to assume office, is absent in the case of the Senate.
10. It should also be noted that this report is concerned exclusively with the recognition of political parties in the Senate. Your Committee has not reached any conclusions with respect to the recognition of or rights of groups of Senators other than parties. At different times in the history of the Senate, groups of Senators — both within a party caucus and across party lines — have chosen to work together. Nothing in this report is intended to deal with such situations.
11. The significance of party recognition in Parliament has increased over time. It is important to remember that there are different aspects to recognition — legal, procedural and administrative.
12. Your Committee believes that the Senate should recognize parties. While it is not necessary or desirable to define what constitutes a party, some threshold requirements must be established. We believe that there should be two principal components to this: first, an objective organizational requirement, and, second, a numerical requirement, or minimum number of members in the Senate.
13. With respect to the objective requirement, your Committee recommends that a party must be registered as a party under the *Canada Elections Act* at the time that recognition is sought in the Senate. Your Committee emphasizes, however, that the relevant time is when the party first seeks recognition as a party in the Senate. If, subsequently, it ceases to be registered under the *Canada Elections Act*, it would retain its recognition in the Senate so long as it continued to meet the minimum number of members in the Senate. Only if it fell below this threshold and again sought to be recognized would its registration under the *Canada Elections Act* be relevant. While the *Canada Elections Act* does not apply to the Senate, there is a connection through the appointment of Senators by the Governor General on the advice of the Prime Minister. Moreover, registration under the *Canada Elections Act* represents a commitment to the political system, and represents an objective criterion for determining the *bona fides* of an organization.
14. As far as the minimum number of members required for recognition in the Senate, your Committee believes that a party must have at least five members in the Senate. This is premised on two arguments: First, in order to function as a party, it is necessary that the group have a leader, a deputy leader and a whip, and there must be at least two other members. Without such numbers, it is difficult to see how the group of Senators could function as a party. This is not to say that political parties may not continue to have — as they have had in the past — representatives in the Senate, without being recognized as a party. Second, your Committee notes that the number of members required for recognition as a party in most legislatures in Canada has a numerical component, and bears some relation to the total membership of the legislature. Given that the House of Commons currently has a membership of 301, and requires at least 12 members for a party to be recognized, your Committee believes that five is appropriate.
15. If the Senate is to recognize other parties, the *Parliament of Canada Act* should be amended to provide for additional allowances to be paid to the leader, deputy leader and whip.
16. In addition, the *Rules of the Senate* will need to be reviewed and revised accordingly. Procedurally, certain rights should be given to recognized third parties.
17. With respect to speaking times, your Committee believes that only the Leader of the Government in the Senate and the Leader of the Opposition in the Senate should be permitted unlimited time in debate. Leaders of other parties generally should be given the same period of time to speak as the sponsor of a bill and the first Senator speaking immediately thereafter — 45 minutes — under Rule 37(3).

18. With respect to committees of the Senate, your Committee believes that recognized third parties should receive membership on committees that is proportionate to their standings in the Senate. We do not believe, however, that it would be appropriate for members of recognized third parties to be *ex officio* members of Senate committees.

19. Other issues flow from recognition. Administrative matters, such as office accommodation and seating arrangements in the Chamber, and research and other budgetary matters will also have to be addressed. Your Committee believes that these can be worked out by the leadership and the Standing Committee on Internal Economy, Budgets and Administration.

Your Committee, therefore, recommends:

1. That the Senate accord official recognition to parties that are registered as parties under the *Canada Elections Act* at the time that recognition is sought in the Senate and have at least five members in the Senate. Recognition would be withdrawn only if the party's membership in the Senate fell below five members.
2. That the Government be asked to propose amendments to the *Parliament of Canada Act* to reflect the decision of the Senate.
3. That the *Rules of the Senate* be reviewed and that your Committee propose amendments following adoption of this report by the Senate.

Respectfully submitted,

JACK AUSTIN, P.C.
Chair

The Hon. the Speaker: When shall this report be taken into consideration?

On motion of Senator Austin, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

BUSINESS OF THE SENATE

The Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(a), I move:

That for the duration of the present session, when the Senate sits on a Wednesday or a Thursday, it sits at 1:30 p.m., and that rule 5(1)(a) be suspended in relation thereto.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

MISCELLANEOUS STATUTE LAW AMENDMENT BILL, 2001

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-40, to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain provisions that have expired, lapsed, or otherwise ceased to have effect.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

[English]

NUNAVUT WATERS AND NUNAVUT SURFACE RIGHTS TRIBUNAL BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-33, respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other acts.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Adams, bill placed on the Orders of the Day for second reading two days hence.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

COUNCIL OF EUROPE PARLIAMENTARY ASSEMBLY
MEETING, SEPTEMBER 24-28, 2001—REPORT OF
CANADIAN DELEGATION TABLED

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have the honour to table the report of the Canada-Europe Parliamentary Association delegation to the Parliamentary Assembly of the Council of Europe, Fourth Part Session, which was held in Strasbourg, France, from September 24 to 28, 2001.

AGRICULTURE AND FORESTRY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Hon. Jack Wiebe: Honourable senators, on behalf of Senator Gustafson, I give notice that on Wednesday, November 7, 2001, I will move:

That the Standing Senate Committee on Agriculture and Forestry have the power to sit on Tuesday, November 20 at 3:30 p.m. to hear from Ambassador Danièle Smadja, Head of the European Commission in Canada, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

BIOLOGICAL WEAPONS AND BOWWARFARE

NOTICE OF INQUIRY

Hon. Sheila Finestone: Honourable senators, I give notice that on Thursday next, November 8, 2001, I will call the attention of the Senate to the issue of biological weapons and biowarfare.

[Translation]

THE SENATE

TIME ALLOTTED FOR TRIBUTES—NOTICE OF INQUIRY

Hon. Jean Lapointe: Honourable senators, I give notice that I will call the attention of the Senate to the time allotted for tributes.

[English]

ACCESS TO CENSUS INFORMATION

PETITION

Hon. Lorna Milne: Honourable senators, I am still at it. I have the honour today to present 979 signatures from Canadians in the provinces of B.C., Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick and Nova Scotia who are researching their ancestry, as well as signatures from 371 people from the United States who are researching their Canadian roots. A total of 1,350 people are petitioning the following:

Your petitioners call upon Parliament to take whatever steps necessary to retroactively amend Confidentiality-Privacy clauses of Statistics Acts since 1906, to allow release to the Public after a reasonable period of time, of Post-1901 Census reports starting with the 1906 Census.

I have now presented petitions with 14,034 signatures to this 37th Parliament, and petitions with over 6,000 signatures to the 36th Parliament, all calling for immediate action on this very important matter of Canadian history.

• (1450)

QUESTION PERIOD

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—ALLOCATION OF FUNDS IN UPCOMING BUDGET

Hon. J. Michael Forrestall: Honourable senators, I should like to ask the Leader of the Government whether or not, in the forthcoming budget, there are any additional funds allocated to National Defence and, if so, whether some of those funds are earmarked for the Sea King replacement program.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, surely the honourable senator is not asking me to leak the budget. That would really be in violation of parliamentary protocol in this country. Clearly I cannot tell him what is in the budget. I do not know, and if I did, I could not tell him for the reasons I have given.

Senator Forrestall: Honourable senators, I have learned around here that asking questions is not very fruitful, but I do not mind asking them. I did not ask the minister to reveal the budget.

REPLACEMENT OF SEA KING HELICOPTERS— UNBUNDLED PROCUREMENT PROCESS— CONTRACTS FOR CANADIAN COMPANIES

Hon. J. Michael Forrestall: Honourable senators, the government has said repeatedly that they split the Maritime Helicopter Project procurement to increase the benefits to Canadian industry, but the Department of Public Works and Government Services' own documents state that the way the current program is structured will decrease regional industrial benefits. The government knew this before — I emphasize "before" — they announced the Maritime Helicopter Project, with layoffs here in the high-tech sector practically going through the roof. Why has the government moved specifically to deny industry and the regions of this country, already approaching a recession, all the potential benefits of a properly structured Maritime Helicopter Project procurement process? I have some 17 indications that the government knew beforehand. Can the minister tell us why the government would take this deliberate action at this particular time?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is interesting that we can sit in the chamber and have three hours of debate and discussion on a procurement process and come to two totally different conclusions. I think there was only one conclusion to come from that debate and discussion that we had with the two able witnesses, one from Public Works and the other from DND, and that is that it is the desire and goal of the Canadian government that Canadian industry, particularly in its regions, receive benefit from the way in which this procurement process occurs.

Senator Forrestall: Honourable senators, if the minister does not want to answer the question, that is entirely within her purview and right to do so. However, for heaven's sake, when dealing with something as important as this issue, we should at least treat it as if it might just possibly be important. At one time it used to be important to the minister, when she came from a part of the country that has to rely on this industry.

I have, and I am tempted to read them, 17 indications from the Department of Public Works' own documentation which state that the unbundling of the contract, the dividing of the contract, not the issuance of a single contract, will have a deleterious effect on the industrial regional benefits portion of this contract.

When we had the opportunity the other day to look into this, which I welcomed and I thank the minister for, I had nine and one-half minutes to ask questions. I think that speaks for itself. Tell me why, knowing beforehand, the government proceeded with the unbundling.

Senator Carstairs: Honourable senators, Senator Forrestall insists that I did not answer his question. I did, but he just did not like the answer. I cannot guarantee that he will like the answer that I now give, which is that the Government of Canada believes that having two separate contracts will result in giving more companies bidding opportunities for the internal operations of the replacement for the Sea King helicopter than would have occurred prior.

JUSTICE

DEFINITION OF "TERRORIST ACTIVITY" IN STATUTES AND REGULATIONS

Hon. A. Raynell Andreychuk: Honourable senators, to the Leader of the Government in the Senate, now that Bill C-11 has left this place fully intact, will the government undertake that the definition of "terrorist activity," to be placed somewhere in the regulations, will be the same in Bill C-36 as it will be in Bill C-11 and that we will have only one definition of "terrorist activity" in Canada?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the honourable senator knows, we have not yet received Bill C-36, which has a definition of "terrorist activity" and which, from my reading of the report from a very able and capable committee, in fact, made some amendments. The definition in Bill C-36 is still to come, but I should hope that the regulations for Bill C-11 would reflect a similar if not equal definition.

Senator Andreychuk: Honourable senators, I am not asking what the bills will say. I understand the process. Is there an undertaking by the government that there will simply be one clear definition of "terrorist activity" and that it will be the same in both bills?

Senator Carstairs: It cannot be the same in both pieces of legislation, but the aim and objective is to ensure that the

definition in the regulations for Bill C-11 would mirror the actual statement of the activity in Bill C-36. That is certainly what I hope will occur, and I will take the honourable senator's message to cabinet.

Senator Andreychuk: Honourable senators, will the government therefore look into the Canadian Security Intelligence Service Act to ensure that it conforms to the same definition of "terrorism" that will be in the other two acts?

Senator Carstairs: Honourable senators, as the honourable senator knows, they have not defined "terrorism;" they have dealt only with "terrorist activity." Again, I will take forward the message from the honourable senator that she would like the definition of "terrorist activity" — not of "terrorism," but of "terrorist activity" — to be the same in all pieces of government legislation, including the CSIS Act.

FINANCE

DEVALUATION OF DOLLAR

Hon. Donald H. Oliver: Honourable senators, my question is directed to the Leader of the Government in the Senate. It seems that whenever there are discussions of the current economic downturn, rising unemployment, weak capital markets and a weak Canadian dollar, the Minister of Finance's standard line is, "The fundamentals are right." Could the Leader of the Government explain why, after eight years of Liberal government, the dollar has fallen from U.S. 77 cents when Paul Martin took his oath of office to less than U.S. 63 cents today, if the fundamentals are right?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the honourable senator well knows, the value of our dollar is not just a result of activity in this country but also of the international marketplace, and Canada's dollar has done extremely well in relation to other currencies, although not the United States' currency. In reality, neither have others, be they European currencies, Central American currencies, Latin American currencies, or indeed the Canadian dollar, although the Canadian dollar has done very well.

The senator asks why the Minister of Finance, the Honourable Paul Martin, keeps talking about the fundamentals being right. Mr. Martin is clearly talking about the fact that we have brought the deficit under control, that we have started in very large measure to pay down the debt, and that we have a vibrant economy.

• (1500)

For example, last week the unemployment figures came out. In comparison with the United States, which lost a full half percentage point and in fact increased their unemployment rate by .5 per cent, Canada's only went up by .1 per cent. I think the minister is quite correct, the fundamentals are right in this country.

Senator Oliver: Honourable senators, in her answer, the honourable minister referred to other currencies and I would like to have her elaborate on that. Canadians have long looked at problems of some of the world's other nations and felt secure in the knowledge that our dollar, while not as strong as the American dollar, has been doing much better than the currencies of many other nations. Since January of this year, our dollar has lost 11 per cent against the Mexican peso. Back in January, our dollar bought 6.5 pesos while today it buys only 5.8 pesos. Back on September 11 our dollar bought an even 6 pesos. The downward trend has continued.

We used to laugh at the Russians when they would run out to spend their rubles before they would lose their value. Since the beginning of this year, our dollar has lost 2.5 per cent against the Russian ruble. Is our dollar losing ground against the ruble and the peso because those countries are doing a better job of getting their economic fundamentals right?

Senator Carstairs: Honourable senators, the comparisons are interesting ones because the currencies we normally compare ours to are the Australian dollar, the euro, the U.K. pound, the Japanese yen, against all of which we have performed much better. In terms of the Russian and the Mexican currencies, I think one would have to take a look at where those currencies were, not just in January 2001, but also in January 1999, January 1998 and January 1996, for example.

INTERNATIONAL TRADE

UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT

Hon. Gerry St. Germain: Honourable senators, my question is directed to the Leader of the Government in the Senate. As of today, 21 sawmills have closed down and 85 per cent of the logging has curtailed in British Columbia. Another four or five sawmills will be closing down in the next few weeks. These closures represent over 75 per cent of the lumber production of the West Coast industry, which cannot resume until some form of resolution is achieved with the U.S. Department of Commerce. Thousands of British Columbians are being put out of work.

The Americans have named a Mr. Marc Racicot from Montana as special envoy. Will the minister recommend to her cabinet colleagues that the Prime Minister appoint a new high level senior official dedicated to deal solely with finding a resolution to this critically important trade dispute that has now affected these thousands of British Columbians of whom I speak?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for that question because it is indeed a very serious issue, not just to the people of British Columbia but to all other provinces in this country that depend on the lumber industry for a great deal of their economic strength.

The messages from the Minister for International Trade have been clear. The decisions of the United States Department of

Commerce are punitive and harmful, and he took those messages to Mr. Racicot when they lunched together. Those strong messages emphasize that we think that Canada, and particularly the lumber industry, has been treated very badly.

Personally, I think this issue should remain as the number one item for the Honourable Pierre Pettigrew, and I would be reluctant to see it handed off to someone else for negotiation. However, it is a valid suggestion that the honourable senator makes and I will ensure that that suggestion is brought forward to my colleagues.

Senator St. Germain: Honourable senators, inasmuch as various other disputes have been settled by senior officials, often the political arena cannot solve such problems. That is why I have asked the minister to go to cabinet and I am appreciative of the fact she is prepared to do so.

The Minister of Finance may say the fundamentals are right, but one of the problems with this softwood lumber issue is the value of our dollar. It cannot be ignored. We can stand up here and say the fundamentals are right and we can be compared to Japan and all the other countries in the world, but it really does not help when 85 per cent or more of our trade, in the billions of dollars, is with the United States. That is the country we have to compare ourselves with, not these other nations where we do have trading relations but not to such a significant level.

Regardless of whether we say the fundamentals are right, it does not help a British Columbia family in Maple Ridge or Prince George. The mayor was on the airplane from Prince George last night, and other mayors from various communities are coming to Ottawa on virtually a daily and weekly basis to try to solve this problem. The fundamentals may be right in some aspects, but if we do not deal with the value of the dollar this problem will continue.

Honourable senators, the industry wanted the last agreement because it did not want to fight, but we should have fought the good fight five or six years ago when we entered into the agreement. Will the government at least take a look at the value of the dollar? I know there is rhetoric that suggests we raise interest rates, or do this or that. I believe we must address the issue. I should like to hear the leader's comment.

Senator Carstairs: Honourable senators, Senator St. Germain has to some degree identified the real dilemma. Even in the United States, there is a considerable conflict between the lumber industry and the housing industry. The housing industry south of the border would like this issue settled quickly because they like Canadian lumber and they like the value of Canadian lumber, both in terms of the quality of the lumber and its price. So far it would appear that the President's ear has been held primarily by the industry representing the lumber barons, if you will, and he is not hearing much from the homeowner perspective. Perhaps as the recession becomes more complex, the urgings of the building industry south of the border will help us in bringing pressure on the United States government.

FINANCE

MINISTER'S SPEECHWRITER—CONTRACTUAL ARRANGEMENT

Hon. David Tkachuk: Honourable senators, could the government leader confirm a report in Sunday's *Ottawa Citizen* that a Mr. David Lockhart has been given a non-tendered contract worth \$214,000 per year to write speeches for the Minister of Finance?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I cannot confirm that particular item, but I will ask the appropriate authorities and get back to Senator Tkachuk with a reply.

Senator Tkachuk: Is this same David Lockhart working exclusively for the Minister of Finance writing speeches, or does he have contracts with other federal government ministers, agencies, Crowns and departments?

Senator Carstairs: Honourable senators, since I do not even know if he has one with the Minister of Finance, I certainly cannot say whether he has one with other members of cabinet. He certainly does not have one with me. I will broaden the question to include others for whom he may be working.

Senator Tkachuk: Honourable senators, since the Minister of Finance gave no speeches after September 11 of this year for some four weeks, could the minister confirm that Mr. Lockhart was on holidays during that time, or is he perhaps on an 11-month contract?

• (1510)

Senator Carstairs: Honourable senators, I can certainly ask. I am not sure whether that kind of private information is available to us, but I will certainly put the question forward. I suspect that the Finance Minister will be making a great number of speeches, beginning with the delivery of the budget in December and while traversing the country to tell Canadians about that budget.

[Translation]

INTERNATIONAL TRADE

WORLD TRADE ORGANIZATION—MULTILATERAL
NEGOTIATIONS—SENATE INVOLVEMENT

Hon. Roch Bolduc: Honourable senators, my question is for the Leader of the Government in the Senate. This weekend in Qatar, a meeting will be held to initiate multilateral trade negotiations. Could the minister inform us as to the agenda of this meeting? Will the government be presenting its position, and

if so, what will that position be? Also, can the minister tell us about the Canadian delegation that will be attending?

[English]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am somewhat confused by the honourable senator's question. If he is referring to the multilateral negotiations taking place with the World Trade Organization, they will actually begin on November 9, which is later this week, not last week.

Senator Bolduc: I was referring to this coming weekend.

Senator Carstairs: The meetings will begin on November 9. I understand that the first item on the agenda will be the agriculture subsidies.

Senator Bolduc: Does the Leader of the Government in the Senate have additional information about the mandate, at least, or the points of view that Canada represents outside of those surrounding agriculture? I know that there are other aspects. However, any information in regard to the delegation would be appreciated.

Senator Carstairs: Honourable senators, I do not have those details. As I obtain them, I would be pleased to share them with the honourable senator. To the best of my knowledge, there will be a large delegation from Canada. Our delegation will certainly focus on the issue that we almost reached agreement on in Seattle, which agreement unfortunately fell apart in the dying hours of that meeting. That issue is of great importance to our farmers in this country; that is, the agricultural subsidies paid by both the Europeans and the Americans.

Senator Bolduc: The Leader of the Government in the Senate referred to a large delegation that will be involved. Agriculture will not be the only topic that is addressed. As far as I know, there are about 168 people involved in our delegation and senators are missing from the list.

Senator Carstairs: Honourable senators, it might interest the honourable senator to know that I learned of that information on Thursday last. I immediately went to the honourable minister responsible and asked why senators were not included. Apparently, the minister invited up to six senators and they all declined. I then said, "How was this asking done?" Apparently, the minister's staff spoke to senators individually.

I have now asked that minister as well as all other ministers to please work through the whips on both sides so that if one senator, for whatever reason, is unable to attend, we will not lose our participation in the delegation. The leadership had no knowledge of these invitations, and I have been assured that the procedure will be changed.

FOREIGN AFFAIRS

AFGHANISTAN—AID TO REFUGEES

Hon. Douglas Roche: Honourable senators, my question is directed to the Leader of the Government in the Senate. Representatives from three United Nations agencies — the World Food Program, the High Commissioner for Refugees and UNICEF — spoke out over the weekend, stating that thousands of refugees in Afghanistan are living out in the open and it has already started snowing in parts of the country. These UN agencies are racing to provide food and other relief supplies to vulnerable people in desperate need of assistance. The continued bombing is hampering the work of these agencies and worsening the humanitarian crisis, as former Canadian Foreign Minister Lloyd Axworthy, who is in the region, has confirmed.

I am aware that the Prime Minister said yesterday that Canada does not wish to break with the coalition supporting the bombing. However, public opinion in Europe has started to shift away from support of the bombing. I sense growing concern in Canada.

Will the Leader of the Government in the Senate take to the Prime Minister an expression of this concern that a pause be instituted in the bombing to enable humanitarian agencies to get supplies to desperate people?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the honourable senator asks an important question, but one which I could not answer more eloquently than the Prime Minister when he said that this is not the time to put any wedges between the coalition members. In terms of the expression that the honourable senator has raised today, I will bring that forward to my colleagues.

[Translation]

JUSTICE

YOUTH CRIMINAL JUSTICE BILL— AMENDMENTS TO LEGISLATION

Hon. Jean-Claude Rivest: Honourable senators, my question is for the Leader of the Government in the Senate and concerns Bill C-7, respecting the criminal justice system for young persons.

Last week, in her testimony before the Standing Senate Committee on Legal and Constitutional Affairs, the Minister of Justice said peremptorily that she would accept no amendment to the bill. It is rather strange to hear such a statement from a minister and rather rude given the considerable work done by the Senate committee on Bill C-7.

This bill raises very serious concerns in Quebec. As you know, all the stakeholders from the from the community — judges, young offenders, social workers, psychologists, and so on

— totally oppose the bill, which introduces notions of criminal law and adult criminal law into the treatment of children and adolescents guilty of a criminal act. The minister's comments were also very insulting to all those who took the trouble to appear before the committee to express their point of view and their opposition.

Has the Government Leader in the Senate been informed by the Minister of Justice that it is her government's firm intention not to accept any amendments to this bill, as she mentioned to the members of the Standing Senate Committee on Legal and Constitutional Affairs? If this is the case, what should the committee do when it meets in the next few days?

[English]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for his question. The proposed Youth Criminal Justice Act, which is presently before the Standing Senate Committee on Legal and Constitutional Affairs, is not the first edition of this bill. As the honourable senator is well aware, the proposed legislation had a previous incarnation known as Bill C-3. As soon as I leave this chamber, I will be pleased to send to the honourable senator all of the changes that the Honourable Minister of Justice has made to that first bill in comparison to the present bill. The minister has indicated that there is an enormous amount of flexibility.

• (1520)

I have been particularly interested in this proposed legislation for some time. Young offenders and the way in which they are treated in this nation is a subject that, as someone who spent 20 years teaching young people, some of whom unfortunately were young offenders, is dear to my heart. Unfortunately, the reality is that we do not have a consensus among the provinces as to what would be the best youth criminal justice system in this country. In my view, we have an excellent example in the province of Quebec of the best system anywhere in this nation. However, we also have politicians of other political stripes wanting to throw the key away on 10-year-olds.

It is incumbent upon the Minister of Justice to strike a balance, and that is what she has tried to do. The committee will deal with clause-by-clause study tomorrow and then determine what the report shall be.

[Translation]

Senator Rivest: I know that the minister takes a particular interest in this issue and I thank her for this tribute to the Quebec system.

Instead of adopting a brand new act that introduces new concepts and that could create legal problems, why did the Government of Canada not take the Quebec system as a model and make the necessary adjustments? Thus, all Canadians could have benefitted from it.

[English]

Senator Carstairs: Honourable senators, unfortunately the majority of provinces are not prepared to accept the excellent model that has been proven to work in the Province of Quebec. That fills me with deep regret. However, that is the reality at the present time. I hope that there have been sufficient accommodations made in the legislation that will allow Quebec to continue to practise its excellent system and not drive it into having to look at alternative systems.

[Translation]

Senator Rivest: In this case, we should allow Quebec, through an amendment, to be excluded from the proposed federal bill. The Minister of Justice referred to the bill's flexibility, but all the stakeholders said that it will sabotage the Quebec initiative.

If the government and the Minister of Justice want to keep the Quebec initiative, Quebec must be allowed, through a formal amendment, to be exempted from the legislation introduced by the Minister of Justice.

[English]

Senator Carstairs: Honourable senators, as the honourable senator well knows, criminal law falls under federal jurisdiction. It has been determined in the Constitution that it must be the same from coast to coast to coast. That is, unfortunately, the reality. As the honourable senator well knows, the administration of justice is carried out by the provinces. I am of the view that there is enough flexibility in this bill to allow Quebec to continue with its excellent system.

[Translation]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, as regards government orders today, we would like to proceed first with consideration of Item No. 3 on the Order Paper, Bill C-15A, and then carry on with Items Nos. 1, 2, 4 and 5, as well as Bill S-33, reported earlier today.

CRIMINAL LAW AMENDMENT BILL, 2001

SECOND READING

Hon. Pierre Claude Nolin moved the second reading of Bill C-15A, to amend the Criminal Code and to amend other acts.

He said: Honourable senators, I am pleased to address Bill C-15A, to amend the Criminal Code and to amend other acts.

I will take the time allotted to me today to share with you my reservations regarding some provisions of this bill. I will briefly comment on the provisions of the Criminal Code that deal with offences relating to child pornography and criminal harassment.

Let us begin with the amendments concerning child pornography. Honourable senators, too often, unscrupulous adults take advantage of the extreme vulnerability of children and become involved in the possession, production, distribution and sale of child pornography. This is a serious form of sexual exploitation of children which our society must not tolerate. Accordingly, in June 1993, the Parliament of Canada passed Bill C-128 to crack down on such activity.

Since then, paragraphs 163.1(2) and 163.1(3) of the Criminal Code have prohibited the production, distribution and sale of child pornography in Canada. In addition, paragraph 163.1(4) makes possession of this kind of material illegal. For purposes of enforcement, the Criminal Code defines child pornography as the visual representation of explicit sexual activity involving persons under the age of 18 or any material that advocates or counsels sexual activity with a person under the age of 18.

However, subsection 163.1 provides for two defences in order to respect the right to freedom of expression guaranteed by paragraph 2(b) of the Canadian Charter of Rights and Freedoms. First, under paragraph 163.1(6), a person may not be found guilty of possession of child pornography if the representation or written material that is alleged to constitute child pornography has artistic merit or an educational, scientific or medical purpose.

Second, paragraph 161.1(7) provides that no one may be charged with an offence under subsection 163.1 if the public good was served by the acts that are alleged to constitute the offence and if the acts alleged did not extend beyond what served the public good.

As things now stand, an accused may rely on one of these two defences by pointing out to the court facts in support, after which the public department must refute them beyond a reasonable doubt if the individual is to be sentenced.

Honourable senators, on January 19, when asked to interpret these provisions, a majority of Supreme Court of Canada judges found paragraph 163.1(4) of the Criminal Code to be constitutional in *R. v. Sharpe*.

The Minister of Justice, through Bill C-15A, has created five new offences related to the sexual exploitation of children. Their purpose is to give police and the courts the necessary tools to effectively combat the distribution and proliferation of child pornography over the Internet.

Honourable senators, having examined the five new offences proposed, I firmly believe that one of them could pose an enforcement problem. Paragraph 5(3) of Bill C-15A makes it an offence to knowingly access child pornography. This new provision, which would be included in subsection 163.1, does not make it an offence to inadvertently access child pornography on the Internet.

However, there is an error in the wording of clause 5(3), which could call into question the validity of this new offence, and I shall explain why. Unlike the other offences outlined in section 163.1 of the Criminal Code, a person accused of knowingly accessing child pornography could not invoke the exculpatory defence outlined in the sections that I mentioned earlier, sections 163(6) and (7).

This legislative oversight could severely compromise the rights of the accused, and consequently, the constitutionality of the new offence. In fact, the *C. v. Sharpe* decision of the Supreme Court rests on the existence of sections 163(6) and (7) to confirm the constitutionality of section 163(4) of the Criminal Code.

Why would the exculpatory defences based on artistic value, and medical or educational objectives, or public interest apply only to the offences of mere possession, production, distribution and sale of child pornography, and not to the offence of accessing this type of material? The Minister of Justice will have to answer this question when the Standing Senate Committee on Legal and Constitutional Affairs studies the matter.

Honourable senators, I believe that there is another provision in Bill C-15A regarding child pornography that appears problematic. Clause 7 of this bill introduces new provisions in the Criminal Code to eliminate child pornography from a web site.

• (1530)

Thus, a court could order the custodian of a computer system, such as an Internet service provider, to ensure that the material in question was no longer stored on or made available through the computer system, and to provide the information necessary to identify and locate the person who posted the child pornography on the company's server.

Honourable senators, in practice, enforcing such a measure could give rise to two problems. First, clause 7 raises the thorny issue of the legal responsibility of companies for material distributed using their equipment. In fact, by its very general nature, the wording of this provision seems to indicate, that the federal authority would impose an obligation on the supplier with respect to the content of material distributed using its computer equipment.

According to the Canadian Association of Internet Providers — CAIP —, the wording of clause 7 could make it possible for a court to hold a company specializing in this field responsible for

criminal offences such as the distribution or sale of child pornography under paragraph 3 of section 163 of the Criminal Code.

Second, again according to CAIP, the enforcement of this provision could be complicated by the technical difficulties inherent in the operation of the computer equipment of Internet service providers, the activities of computer pirates, and the very structure of the Internet.

Honourable senators, the two concerns I have just mentioned indicate the limits of the provisions intended to apply to the broadcast of child pornography over the Internet. That does not mean that service providers have no responsibility for content carried over their information servers. Quite the contrary! Clearly, these companies have a certain obligation in specific instances. The CAIP is aware of this fact.

In this connection, the fourth element of the code of conduct of this association reads, and I quote:

CAIP Members will not knowingly host illegal content or condone illegal conduct, and they will take action when notified about either.

In this context, the representatives of the association must explain the measures put into effect by the industry to honour this obligation.

However, we must be sensitive to the concerns of the private sector, since it will be working with the courts to ensure the successful implementation of Bill C-15A and since it has the expertise necessary to assess the effectiveness of the changes proposed by the federal government.

Honourable senators, I will now deal with the amendments proposed under clause 10 of Bill C-15A on the offence of criminal harassment. Unlike biases that are widespread in our society, criminal harassment is a complex form of crime, with eight victims out of ten being women and nine out of ten of those charged in cases being men.

It is far more than a mere public nuisance crime, because it frequently degenerates into assault, threats, aggression and sometimes murder! Criminal harassment can have serious psychological repercussions on all aspects of the victim's life, leading him or her to self-doubt and sometimes to under-estimating the seriousness of the crime.

Since August 1, 1993, when Bill C-126 came into effect, section 264 of the Criminal Code defines criminal harassment as follows:

...without lawful authority and knowing that another person is harassed or recklessly as to whether the other person is harassed, [engaging] in conduct that causes that other person reasonably, in all the circumstances, to fear for their safety or the safety of anyone known to them.

The maximum penalty for this offence is five years. Clause 10 of Bill C-15A would increase this to ten years.

This change is mainly inspired by an identical provision in Private Bill S-6, formerly S-17. This was sponsored by Senator Donald Oliver, who had the courage to raise a public debate on the implementation of section 264 of the Criminal Code. Unfortunately, his legislative initiative died on the Order Paper, with the prorogation of the 36th Parliament on October 22, 2000.

When he appeared before the Senate Committee on Legal and Constitutional Affairs on February 3, 1999, Senator Oliver justified the passage of his bill as follows:

The biggest problem with the harassment law as set out in the Canadian Criminal Code today is that most people do not take it seriously. The perception is that harassment is just a very small matter, that it is not serious, and that no serious consequences can flow therefrom.

Honourable senators, like my colleague, I find that the provisions adopted in 1993 to combat this terrible crime have not had the desired results the legislator had hoped for. According to a 1996 study on the implementation of section 264 of the Criminal Code of Canada (Criminal Harassment) commissioned by the Department of Justice, 60 per cent of criminal harassment charges were withdrawn or given a suspended sentence, and 75 per cent of those found guilty were given either mandatory supervision or suspended sentences. These rather un-reassuring conclusions appear to confirm the hypothesis that the courts are ineffective at adequately suppressing criminal harassment.

But will increasing the maximum sentence as set out in clause 264 improve the effectiveness of this provision of the Criminal Code. Will it convince Crown Prosecutors to establish solid evidence in order to prove that a crime has been committed, one which is highly complex by definition? Will it increase judges' awareness, so that they will impose more severe sentences for this type of offence? I have my doubts, if I may say so.

As many witnesses who appeared before the Standing Senate Committee on Legal and Constitutional Affairs said regarding Bill S-17, the ineffectiveness of section 264 of the Criminal Code is not related to the jail term provided, but to the definition of "criminal harassment". Indeed, the expressions "is harassed," "recklessly" and "reasonably" do not take into account the very nature of the crime of criminal harassment and its impact on the victim.

On April 21, 1999, Gillian Judkins, of the Canadian Resource Centre for Victims of Crime, said the following when she appeared before the committee, and I quote:

Although section 264 is a step towards improving the legislation, criminal harassment laws must be reviewed. The criteria laid out in section 264 can make it difficult to prosecute certain cases. In addition, due to the fact that intervention often escalates involvement between the victim and the offender, many victims are reluctant to press

charges. Legislation should affirm that the victim's safety is paramount, while being a deterrent to offenders.

Honourable senators, unfortunately the legislation does not propose any such review. So, in order to conduct a rigorous study of the change proposed in clause 10 of Bill C-15A, the Senate should authorize members of the Standing Senate Committee on Legal and Constitutional Affairs to consult the papers and evidence collected by that same committee during the first session of the 36th Parliament regarding Bill S-17. Following my speech, I will move a motion to that effect.

• (1540)

In conclusion, honourable senators, the omnibus nature of Bill C-15A must not make us forget that this legislation deals with unacceptable and complex social phenomena. Its adoption will have a significant impact on several groups of Canadians. I am thinking of children, victims of criminal harassment, victims of miscarriage of justice, and the various stakeholders in the Canadian justice system. In this context, committee members will have to ensure that this legislation respects the interests and rights of the individuals and groups that it seeks to protect, while ensuring the effective implementation of these provisions by the courts.

Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(f) of the *Rules of the Senate*, I move:

That the papers and evidence received and taken by the Standing Senate Committee on Legal and Constitutional Affairs during its study of Bill S-17, An Act to amend the Criminal Code respecting criminal harassment and other related matters, in the First Session of the Thirty-sixth Parliament be referred to the said Committee for its study of Bill C-15A, An Act to amend the Criminal Code and to amend other Acts, if and when the bill is referred.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

[English]

The Hon. the Speaker pro tempore: Honourable senators, is it your pleasure to adopt the motion for second reading of Bill C-15A?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

On motion of Senator Pearson, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

TRANSPORTATION APPEAL TRIBUNAL OF CANADA BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Gill, seconded by the Honourable Senator Setlakwe, for the second reading of Bill C-34, to establish the Transportation Appeal Tribunal of Canada and to make consequential amendments to other Acts.

Hon. J. Trevor Eyton: Honourable senators, it is my pleasure to speak to Bill C-34, at second reading.

Bill C-34 creates the Transportation Appeal Tribunal of Canada as a multi-modal transportation tribunal to review the enforcement and compliance measures taken under several pieces of transportation legislation now dealing with the rail, marine and aviation sectors. I have been made aware of the background work done by the Department of Transport leading up to the creation of this legislation. It appears very thorough.

Over the last few years, the Department of Transport has been working toward the establishment of a multi-modal transportation tribunal system to provide an independent review mechanism for enforcement and compliance measures undertaken by the Department of Transport in the aviation, marine and railway sectors. Such an independent mechanism already exists in the aviation sector, namely, the Civil Aviation Tribunal, which reviews certain administrative actions and enforcement decisions taken by the Minister of Transport under the Aeronautics Act.

The Civil Aviation Tribunal, which was created by the former Progressive Conservative government, has been in operation since June 1, 1986. Its principal mandate is to hold review and appeal hearings at the request of an affected party with respect to certain licensing and enforcement actions taken by the Minister of Transport.

Honourable senators, on the surface, Bill C-34 basically takes the Civil Aviation Tribunal model for the aviation sector and expands it to include the marine and rail sectors. Also, according to the government, this new tribunal will improve on the approaches and measures available to the Civil Aviation Tribunal.

I mention the Department of Transport's consultation and regulatory review process for a reason, and I want to elaborate on that. In January of 1998, the "Final Report: Review of the Railway Safety Act" recommended the development of new tools to complement existing mechanisms for overseeing safety and ensuring compliance for the rail transportation sector, including a process for reviewing enforcement actions by an independent body similar to the Civil Aviation Tribunal.

Similarly, for the marine sector, a recommendation for an independent review mechanism emanated from the Canada

Shipping Act reform team in its discussion document on enforcement in April of 1998. Also during the period of the consultation and review leading up to Bill C-34, the Department of Transport, in its departmental performance report for the period ending March 31, 2000, stated that it wanted to achieve three key objectives in creating a new, multi-modal transportation tribunal.

The first of these objectives is to achieve increased consistency in the treatment of those whom the department regulates. The second objective is to go in the direction of greater use of administrative-based — as opposed to criminal-based — compliance and enforcement tools. Third, the department said that it wanted to achieve a more simplified review mechanism.

Honourable senators, my reason for referring to the process and background that led to this regulation genesis is simple: As we send this bill to committee, it would be my hope that we will evaluate this piece of legislation against the criteria set out in the objectives contained in the department's own performance report and other official documents. I feel that this is important because it speaks to upholding the integrity of the consultation process in which the department has engaged with interested stakeholders since 1998.

In other words, during this process of creating a new, multi-modal transportation tribunal, the government told stakeholders and other interested parties that these objectives are what it wanted to achieve once the final legislation came to fruition. Our job as legislators should be to hear from some of these stakeholders and interested parties in order to assess the levels to which these objectives have been met. We should also be sensitive to the degree to which these stakeholders and interested parties are happy with the result.

I want to briefly discuss the substance of Bill C-34. In examining the contents of the bill, most things seem quite straightforward. For instance, Bill C-34 makes the necessary amendments to the Aeronautics Act, the Canada Shipping Act, the Canada Transportation Act, the Marine Transportation Security Act, and the Railway Safety Act, to establish the jurisdiction and decision-making authorities of the new tribunal under those acts.

As well, Bill C-34 sets out the general powers and authorities of the new tribunal to conduct its affairs. Similarly, nothing appears out of the ordinary with the transitional provisions governing the changeover from the old Civil Aviation Authority to the new tribunal.

However, one area that I hope we will focus on in the committee deliberation over this bill will be Bill C-34's provisions for an independent process of review of the various administrative enforcement actions taken under various federal transportation acts. I say this for two reasons: First, consistent with the consultation process leading up to Bill C-34, this will be one area where we will see how close the initial vision that the government spelled out in its 2000 performance report matches with the regime that this bill would create.

My second reason for citing this area of Bill C-34 relates to independence. To what degree will the processes and mechanisms that this bill creates be independent?

Similarly, I am curious about this bill's provisions for the appointment of full- and part-time members to the tribunal by cabinet. Bill C-34 stipulates that members of the tribunal must, and I quote here, "collectively have expertise" in transportation sectors.

In scrutinizing the bill at committee, it is my hope that we will seek further clarification of what the government means by the phrase "collectively have expertise."

As well, members of the tribunal will be appointed by cabinet for renewable seven-year terms, so the question of their independence is a factor that we will have to take into account when scrutinizing this legislation.

• (1550)

Honourable senators, in summary, my party supports the general objectives of this piece of legislation. We also acknowledge and appreciate the amount of work the Department of Transport has done to bring this bill to fruition. While there are some items that I am hopeful will be addressed at committee, I also feel that the committee's scrutiny of Bill C-34 should focus on how successfully it has achieved the government's initial objectives from the time it began working on the concept of creating this new multi-modal transportation tribunal. In doing that, we should be mindful of what industry stakeholders and other interested parties have to say about the end result embodied in Bill C-34.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

On motion of Senator Robichaud, bill referred to the Standing Senate Committee on Transport and Communications.

CANADA-COSTA RICA FREE TRADE AGREEMENT IMPLEMENTATION BILL

SECOND READING—DEBATE ADJOURNED

Hon. Jack Austin moved the second reading of Bill C-32, to implement the Free Trade Agreement between the Government of Canada and the Government of Costa Rica.

He said: Honourable senators, I am pleased today to begin the debate on second reading of Bill C-32. I shall provide some comments on the current international setting for new free trade initiatives.

World Bank President James Wolfensohn, speaking in Sydney, Australia, in early August, 2001, made clear his concern that the

much needed-reform of the worldwide economic and trade systems was threatened by the inability of the First and Third Worlds to communicate on issues arising from globalization. His key point was in recognizing that World Bank studies have identified that 1 billion people, mainly in the Third World economy, were not benefiting from globalization. Indeed, there was a clearly defined divide between those in the Third World and elsewhere who were winners and those who were not beneficiaries, or who were losers.

In his address, Mr. Wolfensohn said:

There is a danger that you will lose the next round of trade reform, but not because of the streets. It'll be lost because of the different understandings between rich and poor countries and the inability to establish a dialogue.

Mr. Wolfensohn also said:

The real problem is that in today's world we estimate that there are 3 billion people in countries that have benefited from globalization and probably 1 billion that have not benefited.

Speaking at about the same time in Washington, D.C., Robert Hormats, Vice-Chairman of Goldman Sachs International and former U.S. government official, also expressed concern about the chances for early economic and trade reform led by the World Trade Organization. His key point is that the slowdown in the world economy and in the United States economy in particular, taken together with the strong U.S. dollar, creates exceptional protectionist tendencies in the U.S. political and business leadership. Mr. Hormats is quoted as saying:

The big casualty is trade liberalization, by making it difficult to get support for trade expansion because of the strong U.S. dollar.

U.S. economists say that second quarter growth for 2001 is in the unadjusted range of 0.7 to 0.1 per cent. The U.S. manufacturing sector has been in recession since early 2000 and has lost 837,000 jobs from January 1 to June 30 this year. The strong U.S. dollar is affecting manufacturing, agriculture and the service sector in the United States by attracting imports, while making U.S. exports less competitive.

Despite the weakening U.S. economy, the Bush Administration, after an initial wavering, has confirmed its conviction that its number one economic priority is to attract foreign capital to finance the U.S. foreign debt. In 1980, foreign obligations to the United States exceeded the U.S. debt by U.S. \$339 billion. At the end of 2000, the U.S. net foreign debt stood at U.S. \$1.8 trillion, or 20 per cent of the U.S. GDP.

A second reason for the strong U.S. dollar policy is that it supports the Federal Reserve policy to hold down inflation. A weaker dollar would eventually create a higher interest rate response.

Thus, honourable senators, we have a background in which the absence of a weaker dollar policy has the U.S. government looking at trade sanctions of one kind or another to offset the damage done to U.S. industry and agriculture by its own strong dollar policy. In Canada, we have only to look at the consequences to our bilateral trade in such areas as softwood lumber, steel, grains, tomatoes and so on.

The Fourth Ministerial Conference of the World Trade Organization, scheduled to take place in Doha, Qatar, from November 9 to 13 to discuss the initiation of a new round of trade reforms, has daunting challenges. In a speech to trade envoys meeting in Geneva in the WTO General Council, which took place in late July, WTO Director General Mike Moore warned that failure to launch a successful round would be at the cost of the poorest economies in the world system. However, the remarks of various countries' representatives gave little reason for encouragement.

India insisted that the last round created serious distortions, which it was the obligation of the developed countries to correct. India also refused to negotiate universal rules to protect foreign investors. The Latin American countries said they would not participate unless the developed world agreed to drop all agricultural subsidies. Other disputed areas include investment rules, labour standards, competition policy and the environment.

Frankly, honourable senators, Canadians should not, and do not, expect much progress from the Doha meeting of the WTO. At a time when the world trade system is facing troublesome conditions in trade, in finance and in human security, it may be progress simply that the Doha meeting is being held, and it may be progress should the Doha meeting set up a system of working groups to deal with and report on specific trade issues, including the protectionist use of countervail and dumping laws contrary to their real purposes.

With these background comments on the development of world trade liberalization as context, I wish to introduce to the chamber Bill C-32, the Canada-Costa Rica Free Trade Agreement Implementation Act. While by no means can Bill C-32 be presented as having a major impact on Canadian trade values, it does clearly represent the implementation of important principles in trade liberalization, and it can act as a signal to the trade world of Canada's continuing commitment to trade liberalization and to the improvement of the economies of the developing world.

For those who are not familiar with Costa Rica, it is something of a miracle country. For many decades, Costa Rica has been a fully functioning democracy and has lived in peace within its region, while its neighbours were caught in horrible civil wars. For more than 50 years, Costa Rica has had no standing army to protect it. While Costa Rica is a small country — it has a population of nearly 4 million — it is an exceptional country in its cosmopolitan outlook and its progressive social agenda. There can be no more appropriate country in Central America with which Canada might wish to implement a free trade agreement.

• (1600)

The first bilateral commercial agreement was signed with Costa Rica in 1950. It founded a cooperative trading relationship that has been a positive experience for both our countries. In the last five years, our bilateral trade with Costa Rica has seen an average annual growth rate of over 6 per cent. Of course, the total trade relationship is not large, being valued at about \$270 million, which currently favours Costa Rica in the ratio of about two-to-one.

It is interesting to note that, in the year 2000, Canada's exports to Costa Rica grew by 25 per cent. Also, Canadians have invested over \$500 million in Costa Rica while reverse investment is only a few million dollars. In 1999, Canada and Costa Rica entered into a Foreign Investment Protection Agreement.

I will turn now to the key features of this free trade agreement. First, it is the first agreement with a Central American country and demonstrates the successful conclusion of a mutually beneficial agreement between a relatively large and a relatively small economy. As with our free trade agreement with Chile, it shows Canada's positive attitude to the prospects of a Free Trade Area of the Americas.

Second, Bill C-32 includes new precedents in the area of trade facilitation and competition policy.

Third, the agreement includes side agreements on the environment and labour that are an advance over the previous agreements in these areas.

Fourth, Bill C-32 will assist Canadian exporters in a variety of sectors to enter the Costa Rican market. The improved access will give Canadian business a competitive edge over competitors who do not have the benefit of this type of agreement.

Fifth, we will see the immediate elimination of tariffs on most industrial products upon implementation. This includes automotive goods, environmental goods, prefabricated buildings and some construction products such as steel structures.

Sixth, dealing with agriculture, Canada exports between \$25 million and \$30 million of agri-food products to Costa Rica annually, of which approximately 60 per cent enter duty free, with wheat comprising most of this amount. This reflects the fact that 147 of Costa Rica's 800 agri-food product categories are not subject to import duties. For the approximately 40 per cent of annual Canadian agri-food exports to Costa Rica that are subject to import duties, tariffs range from 5 per cent to 159 per cent. This agreement secures improvements in market access for over 90 per cent of Canada's dutiable agri-food exports to Costa Rica and provides overall for immediate elimination of tariffs on 194 of Costa Rica's 653 dutiable agri-food product categories, elimination of tariffs over seven years on 75 categories, elimination of tariffs over 14 years on 294 categories, exclusion with improved trade-related quota access for 20 categories and complete exclusion of 68 categories.

Products of export interest to Canada benefiting from tariff reductions under the agreement include, among others: apples, cranberries, blueberries, lentils, buckwheat, chickpeas, canary seed, barley flour, canola seed, maple syrup, wine and whiskey in the immediate tariff elimination category. Frozen french fries, certain dried beans and dried peas are in the seven-year phase-out category. Flour, canola oil, margarine, honey, breakfast cereals, pasta, mineral waters and beer are in the 14-year phase-out category. Pork, onions and certain dried beans and peas are in the improved tariff rate quota access category.

In the case of french fries, Canada's largest dutiable agri-food export to Costa Rica, which amounts to about \$5 million in annual exports, Costa Rica's 41 per cent tariff will be phased out over eight years. In addition, Costa Rica will provide a duty free tariff rate quota for imports of Canadian french fries beginning in the first year of the agreement and growing during the tariff phase-out period until the tariff is completely eliminated in the eighth year of the agreement.

Costa Rica will also provide a duty free tariff rate quota for imports of Canadian refined sugar beginning in the second year of the agreement and growing during the tariff phase-out period until the 50 per cent tariff is completely eliminated in the tenth year of the agreement.

Both countries have agreed to exclude dairy, poultry, egg and beef products from the tariff reduction provisions of the agreement. In addition, Costa Rica will exclude an additional number of import-sensitive agri-food products from tariff reduction including potatoes and a number of other fresh and frozen vegetable products.

Costa Rica, in turn, exports between \$100 million and \$120 million of agri-food products to Canada annually. Approximately 95 per cent of these products presently enter Canada duty free. Under the terms of the agreement, Canada will eliminate tariffs on all agri-food products imported from Costa Rica except on the aforementioned dairy, poultry, egg and beef products.

I should like to turn to some of the provisions on refined sugar because this topic has been of concern to the Canadian refined sugar industry and beet sugar producers. Canada and Costa Rica have agreed to eliminate the respective tariffs on refined sugar over an eight-year period. Canada will provide Costa Rica with duty-free access within a tariff rate quota for up to 20,000 metric tonnes of refined sugar beginning in year two of the agreement, increasing to 40,000 metric tonnes in year nine. Costa Rica will provide Canada with up to 3,528 metric tonnes of duty-free access within a tariff rate quota for refined sugar in year two of the agreement, rising to 6,990 metric tonnes in year nine.

These volumes are based on an estimated 1.6 per cent share of the respective parties' domestic markets in year two of the agreement, rising to 3 per cent of market share in year nine.

In year 10 of the agreement, there will be no duties applied on Costa Rican refined sugar entering Canada and no duties applied on Canadian refined sugar entering Costa Rica.

In practical terms, preferred access for Canadian refined sugar exports to Costa Rica will be limited by the rule of origin provisions of the agreement. Specifically, the only refined sugar eligible for preferential access to the Costa Rican domestic market will be that which first meets the rule of origin requirement, that is, either sugar refined from raw beet sugar produced in Canada or sugar refined from raw sugar imported from Costa Rica or, second, that entering under the negotiated exception to the rule of origin.

Honourable senators, I could go on with all sorts of detail on the provisions relating to sugar but, in simple terms, Costa Rica does not refine sugar and, therefore, under the rules of origin, will not be able to export refined sugar to Canada until and unless it does refine sugar. In the meantime, Canadian sugar refiners can, if they wish, export refined sugar from Canadian-grown sugar beet to Costa Rica if they find it economically feasible to do so.

There are other benefits, honourable senators, of this agreement. This is the first bilateral free trade agreement that includes innovative stand-alone procedures on trade facilitation that will reduce costs and red tape for Canadian business at the border. The agreement also includes a precedent setting framework for competition policy that we expect can serve as a model for the entire region in the context of the Free Trade Area of the Americas.

In light of the growing economic, environmental and social links between Canada and Costa Rica, both countries have also agreed that a commitment to environmental and labour cooperation, along with effective enforcement of domestic laws, must go hand in hand with this agreement, which is why side agreements on the environment and labour were negotiated in parallel.

• (1610)

To give a little more detail, the Canada-Costa Rica Environmental Cooperation Agreement includes obligations that provide for improved levels of environmental quality, the effective enforcement of environmental laws that promote open, transparent and equitable judicial and administrative procedures. It also seeks to involve the public as appropriate in all aspects of the implementation of the agreement.

On the labour front, the two countries have signed the Canada-Costa Rica Agreement on Labour Cooperation. The main elements of this agreement include: coverage of industrial relations, employment standards and occupational safety and health; a mechanism allowing the public to raise concerns about the application of labour law in the other country; and development assistance to help the Costa Rican Department of Labour and Social Welfare improve its institutional capacity.

This free trade deal must be good not only for Canada but also for Costa Rica. All of us who support free trade believe that it is the best way to create greater prosperity and, with it, a chance for the poorer countries of the hemisphere to improve their economic situation.

In the end, our efforts to liberalize trade on the multilateral, regional and, in the case of Costa Rica, bilateral level, all lead to the same goal: a more open rules-based trading system. Such a result will greatly benefit the people of this country and, indeed, people around the world.

Honourable senators, I believe that Bill C-32 is a step in the right direction. For these reasons, I encourage you to support this bill.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wish to thank the Honourable Senator Austin for a fine explication of the bill dealing with the implementation of the free trade agreement with the Government of the Republic of Costa Rica.

It is warming to my heart, honourable senators, to hear such enthusiastic support coming from the benches opposite for free trade agreements. I did check Hansard from a few years back and, like St. Paul on the road to Damascus, there has been a remarkable conversion.

I should like to underscore the leadership that Costa Rica has shown, both in this hemisphere and in South America, in the promotion and the protection of human rights. Costa Rica has been a real leader in this field. It is noteworthy to underscore as well that Costa Rica has more school teachers than soldiers, which is to the credit of both the people and the Government of the Republic of Costa Rica.

It seems to me, honourable senators, that trade and human rights go together. I support the principle of this bill.

My colleague the Honourable Senator Kelleher, who has expertise in this bill as a former trade minister, will speak on the bill probably tomorrow. Therefore, in his name, I wish to move the adjournment of the debate.

On motion of Senator Kinsella, for Senator Kelleher, debate adjourned.

INTERNATIONAL BOUNDARY WATERS TREATY ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Corbin, seconded by the Honourable Senator Day,

for the second reading of Bill C-6, to amend the International Boundary Waters Treaty Act.

Hon. Mira Spivak: Honourable senators, we are told that the government's intent in proposing Bill C-6 is to ensure that Canada's waters are not for sale. To effect that policy, we have this legislation for waters under federal jurisdiction and the so-called Canada-wide accord to protect waters under the control of the provinces.

I am certainly in agreement with preventing any bulk exports of water from anywhere in Canada. Like many of my colleagues, however, I question whether this bill will do what the government says it wants to do for fresh water under federal jurisdiction.

I want to thank the Honourable Senator Corbin for his clear explanation of the bill. The Honourable Senator Carney's masterful exposition has alerted us to the clear and present danger here. I also have strong doubts, based on recent events, that the government's overall strategy and its Canada-wide accord are sufficient to prevent bulk water exports.

Previous speakers have talked about the importance of the Great Lakes Basin, New Brunswick's St. Croix River, Ontario's Lake of the Woods, and the basins of waters and rivers in British Columbia. These are major fresh water resources that we share with the United States, but they are by no means the only bodies of water that have been eyed by those who would like to profit by shipping our water south or to other parts of the world.

Decades ago, entrepreneurs began to talk openly about capturing water that flows into James Bay and exporting it south through a combination of canals and natural lake and river systems. A member of Parliament revived that discussion in September 1998. Other proponents of bulk water exports have put plans on paper that would draw water that flows east from the Rockies across the prairies. They could export it south via natural rivers such as the Souris River, which originates in Saskatchewan and crosses the border to North Dakota.

There are some 300 lakes and rivers along and crisscrossing the Canada-U.S. border. Many have the potential to become export routes not only for water in their natural watersheds but also for fresh water that lies north and is diverted into them.

For decades, these grand schemes have been seen as wild-eyed ventures. The economics to support them were simply not there. Now, North America faces predictions of water shortages in the agricultural Midwest as a result of climate change. Elsewhere in the world, fresh water is a precious commodity. The economics of such ventures appear to be changing and are certain to change more in the future if the climate change projections prove correct.

In recent years, we have seen the Ontario government grant a permit to the Nova Group to take 10 million litres a day from Lake Superior for export. Fortunately, Nova withdrew its application after an appeal was filed. In British Columbia, the provincial government's refusal to allow Sun Belt Inc. to export billions of litres of fresh water to California is the subject of a NAFTA challenge. In Newfoundland, Premier Roger Grimes appeared ready to consider lifting that province's ban on the export of bulk water to allow the McCurdy Group to draw more than 20 million cubic metres annually from Gisborne Lake and pipe it to tankers or bottle it for export. Last month, the premier changed his mind when a report showed that royalty revenues would be far less than expected.

The worrisome part that of decision lay in the comments of the province's justice minister. He said:

Should circumstances change in the future, any proposal would have to be evaluated on a case-by-case basis to decide whether or not the ban should be lifted.

The government would like to assure us that the Canada-wide accord to ban bulk exports is our insurance policy. I suggest we now have evidence to the contrary. A change in leadership, a change in government, a change in the economics of bulk exports could render it meaningless.

My colleagues, through their questions and speeches, have raised serious doubts about the ability of Bill C-6 to deliver on the federal portion of this promise. The bill that purports to prevent bulk water exports from boundary waters does not, as Senator Carney has stated, define what constitutes a "bulk export." We are told that a regulation will deal with the matter.

The bill purports to close the door to bulk exports through clause 13(1), which states:

13(1) ...no person shall use or divert boundary waters by removing water from the boundary waters and taking it outside the water basin in which the boundary waters are located.

It then potentially opens the floodgates in subclauses (3) and (4) by stating that the prohibition shall apply only to water basins described in the regulations and will not apply to exceptions specified in the regulations.

• (1620)

The bill, through clause 21(1), gives the Governor in Council, on the recommendation of the minister, the power to define through regulation any word or expression not defined in the act. This amending bill has only three definitions. It does not define such key terms as "use," "obstruction" or diversion" of water.

Reasonable people may ask why the bill is so loosely drafted. Why is the minister given such extensive discretionary powers? Why is Parliament not being asked to define what constitutes a bulk export? Why does the government want the minister, not

Parliament, to determine those water basins to which this act will apply or the exceptions to the purported ban? It is reasonable to suggest, as my colleague has suggested, that either the drafters did not know what they were doing or, if they did, there is a bureaucratic, if not a ministerial, interest in exporting fresh water.

We are told that some, but perhaps not all, of the draft regulations that will define the critical elements of this bill will be available to our committee as we study this bill. I appreciate the undertaking but I do not believe that it is sufficient.

Today's regulation can be changed tomorrow without prior scrutiny of Parliament. We have the Standing Joint Committee for the Scrutiny of Regulations to review regulations after they are in place, but its powers of review and disallowance are limited. Disallowance has only been exercised eight times since 1987. That committee may examine regulations to determine whether they constitute "some unusual or unexpected use of the powers" delegated to the executive — either the minister or the Governor in Council. It may determine whether a regulation "amounts to the exercise of a substantive legislative power properly the subject of direct parliamentary involvement." In practice, however, the joint committee has always refrained from reviewing the merits or policy of regulation. The committee's work is not a substitute for Parliament ensuring that it does not delegate what properly belongs to Parliament.

Members of that committee are given a useful handbook that sets out the history, the rationale and the practice of Parliament's delegation of its legislative powers to the executive. Much of what it says is worth considering in the context of this bill. First, it reminds us that the rule of law and parliamentary supremacy are two core constitutional values in our system of government.

Second, it reminds us that the maintenance of those core values ensures, in the long term, the preservation of the rights and freedoms of citizens.

Never have those rights and freedoms endured long in a society where all the powers of the State are concentrated in the same hands.

Few matters are as important to Canadians as the security of fresh water. We must take extra care to ensure that Parliament is maintaining its supremacy and thereby meeting its duty to our citizens.

Third, it cites the wisdom of other bodies, including a committee of the British Parliament that in 1932 investigated the growing legislative power of the executive through Parliament's granting of ministerial discretion and the power to make regulations. The committee laid down certain instances when delegation was justified only in exceptional and emergency situations. One of those instances is as follows:

...conferring on the Executive so wide a discretion 'that it is almost impossible to know what limit Parliament did intend to impose.'

That describes the ministerial discretion found in this bill. If parliamentarians do not define what constitutes bulk exports or the water basins that will be protected or the exceptions that will be granted, it will be impossible to know Parliament's intent on the matter. The government has not made a case for exceptional circumstances or emergency measures. We should not agree to the delegation of such sweeping powers. If we do, we are not fulfilling our duty as parliamentarians.

Do we need to reject this bill outright or can we amend it to define what must be defined and to remove the extraordinary delegation of Parliament's authority to make the laws of the land? Is there some middle ground?

There are precedents for parliamentary oversight of regulations, apart from the joint committee's work. The Hazardous Products Act requires the Governor in Council to table before both Houses all orders adding a product to the hazardous products schedule. If both Houses so resolve an order is revoked automatically. Under the National Parks Act, the House of Commons must consent to any proclamation to expand the boundaries of a national park. Those on the Standing Senate Committee on Energy, the Environment and Natural Resources will remember that debate.

Under the Firearms Act, the minister must place proposed regulations before each House and each has the opportunity to refer them to committee, to hold inquiries or public hearings and to report to the House. These procedures can draw considerable public attention to inappropriate regulations but here, too, there are loopholes. The minister can decide whether the regulatory changes are immaterial or unsubstantial and do not require parliamentary oversight. The minister can also ignore the process by declaring that the regulation is urgently needed.

At a minimum, a similar procedure without the loopholes and with the clear direction for Parliament to amend inappropriate regulations is needed for Bill C-6. In a matter as essential as the protection of our freshwater resources, it is Parliament, not simply the executive, that must legislate.

There are good reasons for Parliament to delegate its authority for the technical details of law-making but that is not what is at stake in this bill. The pith and substance of the bill would be delegated. The approach that Bill C-6 takes is frankly disrespectful of Parliament. I would certainly hope that the committee to which this bill is referred — I understand it is the Standing Senate Committee on Foreign Affairs — will delve further into this issue.

Three other matters require the committee's attention. The penalty section of the bill provides for fines and imprisonment of those who export water contrary to the act. A fine of \$1 million and three years' imprisonment would be a significant deterrent. However, if legal action were to proceed by summary conviction, the penalty would be substantially less and could be considered, as it often is, the cost of doing business. It happens with pesticides applied on lawns. With fines of \$20 a day or \$2,000 a

day, people do it anyway even though it is banned. It is the cost of doing business.

The bill contains the now standard clause "for greater certainty" respecting Aboriginal or treaty rights of Aboriginal peoples — which is generally laudable. However, reports obtained last summer under the Access to Information Act raise serious questions. The first report found that brokers proposing multi-million dollar schemes to export water from treaty lands have approached some First Nations. The second report, a legal study, contained the opinion that such a scheme "could involve a conflict between provincial laws, federal laws and treaty rights." We need to look at that potential conflict to be certain that the clause does not create a sieve in the policy to contain Canada's fresh water.

I do not have these reports, but they were received through the access to information process by a reporter.

Finally, we need to know how the government's policy will mesh with policy on the U.S. side of the border. Efforts to protect our portion of a river will be futile if there is no downstream protection.

In conclusion, I agree fully with the government's stated intent to prohibit bulk water exports. It is our job here to make sure that this bill can deliver on the promise.

On motion of Senator Murray, debate adjourned.

• (1630)

CARRIAGE BY AIR ACT

TO AMEND—THIRD READING

Hon. Ross Fitzpatrick moved third reading of Bill S-33, to amend the Carriage by Air Act.

Motion agreed to and bill read third time and passed.

CONSTITUTION AMENDMENT, 2001, NEWFOUNDLAND AND LABRADOR

MOTION—DEBATE ADJOURNED

Hon. Sharon Carstairs (Leader of the Government), pursuant to notice of October 25, 2001, moved the following motion:

WHEREAS section 43 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

NOW THEREFORE the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto.

SCHEDULE
AMENDMENT TO THE
CONSTITUTION OF CANADA

1. The Terms of Union of Newfoundland with Canada set out in the Schedule to the *Newfoundland Act* are amended by striking out the words "Province of Newfoundland" wherever they occur and substituting the words "Province of Newfoundland and Labrador".

2. Paragraph (g) of Term 33 of the Schedule to the Act is amended by striking out the word "Newfoundland" and substituting the words "the Province of Newfoundland and Labrador".

3. Term 38 of the Schedule to the Act is amended by striking out the words "Newfoundland veterans" wherever they occur and substituting the words "Newfoundland and Labrador veterans".

4. Term 42 of the Schedule to the Act is amended by striking out the words "Newfoundland merchant seamen" and "Newfoundland merchant seaman" wherever they occur and substituting the words "Newfoundland and Labrador merchant seamen" and "Newfoundland and Labrador merchant seaman", respectively.

5. Subsection (2) of Term 46 of the Schedule to the Act is amended by adding immediately after the word "Newfoundland" where it first occurs the words "and Labrador".

Citation 6. This Amendment may be cited as the *Constitution Amendment, [year of proclamation] (Newfoundland and Labrador)*.

She said: Honourable senators, I am pleased today to introduce a resolution authorizing a bilateral amendment to Term 1 of the Terms of Union of Newfoundland with Canada. This amendment will change the name of the Province of Newfoundland to "the Province of Newfoundland and Labrador."

Newfoundland became a part of Canada on March 31, 1949, when the Terms of Union of Newfoundland with Canada were ratified under the Newfoundland Act.

In 1964, the Government of Newfoundland and Labrador passed the Labrador Act, which provided for the official recognition of Labrador and a provincial code of arms on government stationery and in government publications. The 1964 legislation was intended to recognize a fundamental reality in the life of Canada's easternmost province — that Labrador is an integral part of that province. However, despite the importance of the Labrador Act, the fact remained that the name of the province, in its Terms of Union with Canada, was still the "Province of Newfoundland."

A province's name is a symbol of the entire province and its people. The importance of Labrador to our easternmost province is not reflected so long as the province's name remains unchanged.

In April, 1992, the Newfoundland House of Assembly called upon the provincial government to take the necessary steps to change the name. A House committee held public hearings across the province, and Newfoundlanders spoke loud and clear. "Change the name," they said. On April 29, 1999, the Newfoundland House of Assembly set in motion the constitutional amendment process to respond to this call for change. On that date, it unanimously adopted a resolution authorizing the Governor General to issue a proclamation to amend Term 1 of the Terms of Union to reflect the new name of the province as that of "Newfoundland and Labrador."

Honourable senators, we are now being called upon to address this constitutional amendment which is close to the hearts of the people of Newfoundland, be they on the mainland or the island. It is a gesture of inclusion that demonstrates a great generosity of spirit on the part of Newfoundland and Labrador. It is an important symbolic recognition of Labrador's status as a full and vital part of that province, with its own unique geography, history and culture. This amendment will allow us to show our appreciation for the many contributions the people of Newfoundland and Labrador have made to the Canadian federation. It is my heartfelt belief that this amendment deserves the full support of the Senate.

The name change is accomplished through a bilateral amendment under section 43 of the Constitution Act of 1982. Section 43 provides for an amendment to Canada's Constitution in relation to any provision that applies to one or more, but not all, provinces. Such an amendment may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and the House of Commons, and of the legislative assembly of each province to which the amendment applies.

This amendment is not just symbolic of the deep and enduring bond between Newfoundlanders and Labradorians, it is also symbolic of the strength and flexibility of the Canadian federation itself. Since the amending formula was adopted in 1982, six other bilateral amendments to the Constitution have been proclaimed into law, demonstrating clearly that the federation is continuing to evolve and improve in significant ways.

I should like to underline that this amendment applies only to the Province of Newfoundland and Labrador. The name change has nothing to do with borders and will have no impact on the boundary between Labrador and Quebec. It is an entirely appropriate measure, and it deserves the full support of the upper chamber.

Newfoundlanders and Labradorians alike have requested this change, and I am proud to say I support them wholeheartedly in their desire to reflect the reality of their province in the Constitution of Canada. I invite my fellow senators to join me in supporting this amendment.

On motion of Senator Kinsella, for Senator Cochrane, debate adjourned.

[Translation]

THE ESTIMATES, 2001-02

NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY
SUPPLEMENTARY ESTIMATES (A)

Hon. Fernand Robichaud (Deputy Leader of the Government) pursuant to notice of November 1, 2001, moved:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (A) for the fiscal year ending March 31, 2002.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

[English]

DEFENCE AND SECURITY

BUDGET—REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Kenny, seconded by the Honourable Senator Moore, for the adoption of the Second Report of the Standing Senate Committee on Defence and Security (budget—release of additional funds) presented in the Senate on September 25, 2001.—(*Honourable Senator Bryden*).

Hon. John G. Bryden: Honourable senators, I should like to take a few moments to address this report. In order to do that, and to indicate why I think it is important that it be addressed, I need to give a little bit of background.

In my opinion, this report and the creation of this committee and the funding of the committee itself to do a general search inside and outside Canada to see if it has jurisdiction in addition to veterans affairs is just one example of initiatives or processes which, when taken together with others, may change this institution in fundamental ways.

• (1640)

For example, there is the issue of Royal Assent; the role of independent senators; the recognition of political parties other than the two traditional parties; the protection of safety, security and the integrity of our institution; and the redistribution of

jurisdictions and areas of responsibility of standing and special committees with the creation of the two new standing committees, one on human rights and one on defence and security.

This is not an exhaustive list, nor is it meant to be. Any senator in this chamber could add to the list. Each change, reform and addition taken alone may seem rather incidental, but taken together, in the end, may result in a much different institution from the one that has functioned for the last 130 or so years.

Put another way, I utter a word of caution that we pay attention to the details of changes to our institutions and to things like our committees and their operations, because it may be those details that shape the very future of the Senate of Canada.

On March 15, 2001, rule 86 of the *Rules of the Senate* were amended by adding a new committee. Rule 86(1) reads:

The standing committees shall be as follows:

(r) The Senate Committee on Defence and Security, composed of nine members, four of whom shall constitute a quorum, to which may be referred, as the Senate may decide, bills, messages, petitions, inquiries, papers and other matters relating to national defence and security generally, including veterans affairs.

On the same day, in the same amendment, the paragraph pertaining to the Standing Senate Committee on Social Affairs, Science and Technology was amended by deleting veterans affairs from its list of included matters, presumably since it now is to be a matter for the Defence and Security Committee. It is important to compare these. The amended paragraph under rule 86(1) states:

The standing committee shall be as follows:

(m) The Senate Committee on Social Affairs, Science and Technology...to which shall be referred, if there is an order of the Senate to that effect —

— virtually the same words as the prior committee —

— bills, messages, petitions, inquiries, papers and other matters relating to social affairs, science and technology generally, including:

— and this is after taking veterans affairs away —

- (i) Indian and Inuit affairs;
- (ii) cultural affairs and the arts;
- (iii) social and labour matters;
- (iv) health and welfare;
- (v) pensions;
- (vi) housing;
- (vii) fitness and amateur sports;
- (viii) employment and immigration;
- (ix) consumer affairs; and
- (x) youth affairs.

In addition, the amendment also removed defence from the list of matters the Foreign Affairs Committee had formerly dealt with, presumably because the amendment created a full-blown committee on defence.

Honourable senators, I find it helpful to compare the similarities and the differences in the terms of reference between the new Defence and Security Committee and the long-established Social Affairs Committee. First, the general terms of reference of both committees are virtually identical. Each is empowered to deal with bills, messages, petitions, inquiries, papers and other matters that the Senate decides to refer to it relating to national defence and security, generally, in one case and relating to social affairs, science and technology, generally, in the other case.

In both cases, it is clear that the Senate and the Senate alone decides which matters are referred. If there are none, there is no power for these committees to take action on their own. This is particularly notable because one standing committee does have such power. The Rules Committee is "empowered: (i) on its own initiative to propose from time to time, amendments to the rules for the consideration of the Senate."

In creating the Standing Senate Committee on Defence and Security, the Senate took the jurisdiction for defence away from the Foreign Affairs Committee and the jurisdiction for veterans affairs away from the Social Affairs Committee.

I assume that when the Standing Senate Committee on Defence and Security has completed its "introductory survey of the major security and defence issues facing Canada," and before it prepares "a detailed work plan for future comprehensive studies," it will bring proposed amendments to rule 86(1)(r) to add policy areas to its included list after "veterans affairs," particularly if it is a policy area that currently is within the jurisdiction of another standing committee in order that any issues can be fully debated by the Senate.

Honourable senators, this institution has been operating for approximately 130 years and committees have functioned for a long time now. It is hard for me to accept that there are a number of significant policy areas that this institution has not directed to the attention of some of its standing or special committees.

Whatever is added to the jurisdiction will be taken away from another committee. I do not believe that it is appropriate — this is why I said it must come back here to be debated in the Senate — nor should it be contemplated that the chairs of standing committees would hand off or trade areas of responsibility among themselves, as was indicated in some of the discussions leading up to this report.

I want to, for want of a better phrase, follow the money, if I can. On June 11, 2001, the Senate adopted the first report of the Standing Committee on Defence and Security, which stated in part:

Your Committee, which was authorized by the Senate on May 31, 2001, to conduct an introductory survey of the

major security and defence issues facing Canada with a view to preparing a detailed work plan for future comprehensive studies, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary, and to adjourn from place to place within and outside Canada for the purpose of such study.

Appended to that report was the following budget. It says, "Budget attached."

• (1650)

Under "Summary of Expenditures" beside "Professional and Other Services" is the sum \$80,500. The sum beside "Transport and Communications" is \$278,700. Next to "Other Expenditures" is the sum \$5,000, for a total budget of \$364,200. The foregoing budget was approved by the Standing Senate Committee on Defence and Security on May 28, 2001.

On June 4, 2001, it was submitted by the Chair of the Defence and Security Committee to the Internal Economy Committee. On June 7, 2001, it was signed by the Chair of the Standing Committee on Internal Economy, Budgets and Administration. Also attached to the first report was a copy of the order of reference.

Appendix (B) to the report of the Standing Committee on Internal Economy, Budgets and Administration, dated June 7, 2001, approved the budget of the committee as follows. For professional and other services the amount is \$80,500; for transport and communications the sum is \$20,500; while next to "Miscellaneous" is "0." The total is \$100,500. Thus, we have a budget before Internal Economy on behalf of the new committee in the amount of \$364,200, of which, on June 7, 2001, some \$100,500, to use the term that was used later on, was released to the committee.

In its second report, which was submitted to the Senate on September 25, 2001, the committee incorporates by reference its budget of June 7, 2001, for \$364,200, and states that, on June 11, 2001, the Senate approved the release of \$100,500 to the committee. The report of the Standing Committee on Internal Economy, Budgets and Administration recommending the release of additional funds is appended to their report. This report was signed by the Chair of the Defence and Security Committee.

Appendix (B) to the accompanying Internal Economy Committee report of September 25, 2001, states, in part:

The Committee recommends the release of the following additional funds:

Professional and Other Services \$0.

That is because the funds for professional and other services were totally released from the budget contained in the first report.

Transport and Communications \$95,500.
Miscellaneous \$0.

That is for a total second release or, as I believe the Chairman of the Defence and Security Committee prefers to refer to it, the second tranche of the budget.

If this report is adopted, the situation will be such that the statement of account for the Defence and Security Committee will be as follows. The budget filed on June 4, 2001 will include for professional and other services the amount of \$80,500; for transportation and communications the amount of \$278,700; and all other expenditures \$5,000.

On June 11, the sums of \$80,500 for professional and other services and \$20,500 for transport and communications were released for a total amount of \$100,500.

On September 23, the Internal Economy Committee authorized \$0 for professional and other services and \$95,500 for transport and communications, for a total requested second tranche of \$95,500.

The status of the budget is as follows. The balance available from the budget for future release, presumably, for professional and other services is zero; the balance for transport and communications is \$162,700; and for other expenditures the amount of \$5,000. There is a total amount of \$167,700 of the budget remaining to be released in either a third tranche or a third and fourth tranche as requested by the committee, and presumably approved.

The Hon. the Speaker *pro tempore*: Honourable senators, I am sorry to inform the Honourable Senator Bryden that his allotted time has expired.

Is leave granted for the honourable senator to continue?

The Fernand Robichaud (Deputy Leader of the Government): Honourable senators, to be fair, I have asked other speakers on other days how much time they will need to complete their remarks. I would like to be consistent and ask Senator Bryden how much time he will need.

The Hon. the Speaker *pro tempore*: How much time does the honourable senator need?

Senator Bryden: Honourable senators, no more than five minutes.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Bryden: Over the last number of years with the exposure I have had to the difficulty in finding enough funds to satisfy the demands of the various standing or special committees for special studies and inquiries, I find it difficult to see how we are making the best use of the committee budget of the Senate of Canada by spending \$364,000 to have a new committee travel to find out what jurisdictions, if any, it should or will be responsible for. I am no longer a member of the Standing Committee on

Internal Economy, Budgets and Administration. However, I would be surprised if there is not a higher demand for the use of committee funds than there are funds available.

Some time ago I proposed that there should be a fair peer-based formula whereby chairs of committees meet to discuss and to assess the proposed studies to be done by their committees and the amount of funds to be spent. Only when those peers had assessed and determined a legitimate area of inquiry would Internal Economy allocate funds. It is not dissimilar to what happens in the House of Commons.

There needs to be a more open, responsible and transparent way of allowing the people who wish to function in committees the opportunity to not only be fairly treated, but to believe that they are fairly treated.

Hon. Roch Bolduc: Would the Honourable Senator Bryden accept a question?

Senator Bryden: Yes.

• (1700)

Senator Bolduc: Honourable senators, having been in public administration for more than 30 years, and having worked at setting budgets, I cannot understand how it is possible for the Standing Committee on Internal Economy, Budgets and Administration to accept a budget of \$365,000 without having a work plan for the committee. First comes the work plan, and then we talk about money.

They have apparently an acceptance for \$365,000, plus what would be required. More than that, they put an exact amount on travel, \$262,000 plus another \$100,000. How can they do that before having a work plan before us? That is my question.

Senator Lynch-Staunton: That is everyone's question.

Senator Bryden: Do I get more time?

Honourable senators, in fairness — and that is why I say that it must be more open and transparent — we authorized that the committee do the travelling, that it go and find out what it is supposed to do. I should have examined the budget much earlier. However, because the budget amount was in the record somewhere else from where we normally would look in the proceedings of the Senate, I did not realize that it was almost \$400,000. I should have done so.

The responsibility really rests with us. I am not referring simply to this committee. Senator Bolduc asked the question and I have the right to answer, I think. It should not be the case that the wheel that squeaks the most gets the grease. Not that I have ever seen it actually happen, but we never want to be in a situation where someone, because of his or her strength of personality, places other senators in the position of having to make a competing application. Honourable senators, that could only be handled if the process is open and fair to everyone, and a level of peers assesses it; not one-on-one, with negotiations that sometimes occur.

Senator Bolduc: Honourable senators, perhaps we should have a new rule — and this is a proposition: Perhaps we should have a new rule in the Senate that we not approve money expenditures between June 10 and June 20. I have been in government for a long time. The follies happen at the end of December and the end of June, every year.

I move the adjournment of the debate.

The Hon. the Speaker pro tempore: It is moved by the Honourable Senator Bolduc, seconded by —

Hon. Anne C. Cools: I have a question.

The Hon. the Speaker pro tempore: I am sorry, Senator Cools, I did not see you. You have a question?

Senator Cools: I want to put a question to Senator Bryden.

The Hon. the Speaker pro tempore: Senator Cools, I would remind you that we gave leave to Senator Bryden for five minutes. Those five minutes have now expired.

Senator Cools: Perhaps Senator Bryden should ask to extend the time.

POINT OF ORDER

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, on a point of order, the Chair is indicating that somewhere in the rule there must be a provision that says that you can give unanimous consent for a time limited. There is nothing in the *Rules of the Senate* that provides for that. Leave was granted to continue beyond the 15 minutes. Unless someone can demonstrate that the *Rules of the Senate* provides for something other than the granting of leave, either the leave is granted, or it is not. In this case, the leave was granted.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I concede that the Deputy Leader of the Opposition is raising a good point. We have recently followed this practice intended to limit time. It is defined in the *Rules of the Senate*. In order to enable senators to finish their remarks, among other reasons, we granted them limited time. We have tried it out in certain instances. By granting leave of the Senate, we might have had a never-ending question period that could have caused a lot of problems when committees were sitting and the Senate had to have its work done by a certain time.

I had agreed to this procedure, but had anyone asked my opinion on the matter, I would have refused leave. I gave leave for five minutes. However, with the unanimous consent of the Senate, we could reconsider what I agreed to. In that case, I would not give leave to return to it. We should stick to the rule. The practice in recent months has shown that we have agreed to act this way.

[English]

Hon. Peter A. Stollery: Honourable senators, on the same point of order, it seems unfortunate that we have now become involved in a procedure in which senators have taken positions that are not being responded to.

I have been a member of the Standing Committee on Internal Economy, Budgets and Administration for 20 years. The impression has been left that the Internal Economy Committee operates in a most unparliamentary manner. That is just not so. I am sorry that Senator Kroft, the chairman, is not here to respond. However, on the point of order, it is not good order to leave the Canadian public with an impression that, in my opinion, is not correct.

Senator Bryden: Honourable senators, I have seen everyone in this chamber accept the time limit placed by the deputy leader on an extension of time. In fairness, I cannot ask for more time than he had given. Therefore, I am not asking for an extension and, therefore, I cannot accept any more questions.

The Hon. the Speaker pro tempore: Honourable Senator Cools, the honourable senator cannot accept any more questions.

Hon. Anne C. Cools: Honourable senators, was Senator Bryden speaking on the point of order or not? I am not sure.

It was my clear understanding that we were on a point of order. Senator Robichaud granted extra time to Senator Bryden. You know that I do not agree with that process. It has been adopted recently, but it is a very improper process, and we would have to challenge that in a set of circumstances other than these.

However, it was my clear understanding that, at this point in time, we were on a point of order. Senator Stollery had just spoken on that point of order. I do not know what topic Senator Bryden was on, but my understanding is that there is a point of order on the floor. Therefore perhaps someone, the leadership presumably, should clarify. Are we on a point of order or are we not?

The Hon. the Speaker pro tempore: There was a point of order. However, there is no rule that identifies exactly the amount of time to be granted on an extension. As you said, Senator Cools, it is a practice that we have adopted lately, but there is no rule with respect to that. However, I consider that that point has been debated.

Senator Kinsella: Honourable senators, I always want to be helpful to the house. I think that we have had a good discussion on this matter. My understanding is that Senator Bryden has also helped us. He will not answer any more questions, and that is his right. Therefore, my point of order is somewhat moot.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion for the adjournment of the debate?

• (1710)

Senator Cools: Honourable senators, I rise on a point of order. The fact of the matter is that Senator Stollery has raised an important, valid point. The fact of the matter is that, in his speech, Senator Bryden raised the need for change. I would assume that at some point in time it would be his intention to, perhaps, move a motion or to make such proposals. The fact is that certain questions were put before the Senate that would make it appear to any reader of the record that perhaps Senator Kenny and the Standing Senate Committee on National Security and Defence did not satisfy the proper process, in terms of obtaining funds and a mandate from the Senate.

Honourable senators, it was my clear understanding that Senator Kenny and the committee did comply with every requirement, as is currently required, and with every regulation and rule. It indicates to me that, to the extent that some uncertainty has been created, there was not proper compliance, or that the Senate as a whole was less than attentive, or somewhat negligent. Therefore, the matter must be settled right now.

Thus, I made an effort to have the question put to Senator Bryden so that it would be crystal clear to all of us that Senator Kenny and the committee are in no way being questioned or impugned. In fact, a new proposal for a future time is being proposed. Whether as a point of order or whether it is done in debate, the facts should be represented clearly on the record and the matter clarified. The Honourable Senator Bryden ought to be given the opportunity to provide us with clarification.

The Hon. the Speaker *pro tempore*: Honourable senators, a point of order was raised. There is no need for a ruling, so there is no point of order. Perhaps the questions that Senator Cools has raised will be answered when Senator Bolduc takes the adjournment and debate resumes.

Is it your pleasure honourable senator to adopt the motion?

Some Hon. Senators: Yea.

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: In my opinion, the “nays” have it.

And two honourable senators having risen:

The Hon. the Speaker *pro tempore*: Honourable senators, for how long should the bells ring?

Senator Kinsella: We have not been notified of an acting whip.

Hon. Terry Stratton: The question must be: Is there notification that there is a whip other than Senator Rompkey?

The Hon. the Speaker *pro tempore*: Senator Moore is acting whip.

Senator Kinsella: The table does not have notification.

Hon. John Lynch-Staunton (Leader of the Opposition): There cannot be a vote if there is no whip.

Hon. Wilfred P. Moore: Honourable senators, Senator Rompkey asked me to fill in because he had to run to his office.

Senator Kinsella: He does not have that authority.

Senator Lynch-Staunton: The clerk must be notified.

Senator Kinsella: The clerk must be notified in writing.

Senator Lynch-Staunton: Ask the officials if it can be done by the leadership.

Senator Moore: I could quickly arrange a written note if I had the time.

[Translation]

Senator Robichaud: Honourable senators, I am allowed a certain amount of time.

Senator Lynch-Staunton: Fifteen minutes!

Senator Robichaud: Yes, certainly. We need to determine how long the bells will ring before a vote is held on this adjournment motion.

At the suggestion of the members of the opposition, I am going to take a little time to cast some light — and I need some encouragement on this — on this very important matter.

The honourable senators have paid a great deal of attention to the speeches that have been given. Needless to say, the matter of a committee's expenses must be dealt with very seriously, for a number of reasons. It is often said that committee work lends a great deal of visibility to the Senate.

Honourable senators, we are in the process of determining how long the bells could ring, and I am getting to that. The members of the opposition having clearly indicated to me that I have 15 minutes to do so, I will stick to that.

The Hon. the Speaker *pro tempore*: Honourable senators, when the whip is not present to make the decision, then the bells must ring for one hour.

[English]

Senator Stratton: We, on this side, agree to a 15-minute bell.

Senator Robichaud: We, on this side, also agree.

The Hon. the Speaker *pro tempore*: Is leave granted for a 15-minute bell?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: Call in the senators.

• (1730)

Motion negated on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk	Kelleher
Bolduc	Kinsella
Bryden	Lynch-Staunton
Buchanan	Murray
Chalifoux	Oliver
Comeau	Pearson
Di Nino	Rivest
Forrestall	Stratton
Gustafson	Tkachuk—18

NAYS

THE HONOURABLE SENATORS

Adams	Hubley
Banks	Joyal
Biron	Kolber
Carstairs	Kroft
Christensen	LaPierre
Cools	Lapointe
Corbin	Milne
Day	Moore
De Bané	Phalen
Finestone	Poy
Finnerty	Robichaud
Fitzpatrick	Rompkey
Fraser	Stollery
Furey	Taylor
Grafstein	Tunney
Graham	Watt
Hervieux-Payette	Wiebe—34

ABSTENTIONS

THE HONOURABLE SENATORS

Bacon
Ferretti Barth
Poulin—3

• (1740)

The Hon. the Speaker *pro tempore*: Honourable senators, I recognize the Honourable Senator Kinsella.

Senator Kinsella: Honourable senators, I am glad that some of our colleagues who are more familiar with the details of this matter, particularly those who are members of the Standing

Committee on Internal Economy, Budgets and Administration, are in the chamber to help us understand the numbers related to this matter. A short time ago, Senator Bryden gave an analysis of the history of the budget proposal of this new committee on security and defence. If I understand correctly, the original submission from that committee was for \$364,200. Honourable senators will recall that at the time we were debating the establishment of this new committee, we were also considering the establishment of the Standing Senate Committee on Human Rights. It is my understanding that the Committee on Human Rights has received \$6,000 to commence its study. It seems to me that we will have to face an issue of equity.

I do not doubt for a moment the mandate the Senate has given. I accept that it was a decision of this body to give a mandate to, first, define the terms of reference of the new Standing Senate Committee on National Security and Defence. I do not question the committee's preparation of a budget or the process of submitting it. However, it seems that something has failed in the system. One committee is submitting a budget for \$364,000 while another is submitting a budget for about \$6,000. The chairs of all the other standing committees who are in this chamber know the amounts they have requested.

Each of our Senate committees is doing important work. I do not think that the work of any committee is less important or less valuable than that of other committees, and I do not think this chamber believes that. However, these numbers indicate that there is something out of alignment. There is something wrong with our process and Senator Bryden is appealing to this chamber to revisit the process.

Honourable senators, we need to transcend any personalities that may be involved. We must look at the structure and, more important, the process by which budget submissions are made and the way they are scrutinized by the Standing Committee on Internal Economy, Budgets and Administration and its respective subcommittees.

I did ask for some information to help me understand what has been taking place. I should like to be corrected if I am wrong, but it is my understanding that, as Senator Bryden indicated, on June 7 the Senate approved the release of \$100,500 to the Standing Senate Committee on Defence and Security and that this report is asking for the release of another \$95,000. I do not like the term "release" at all. We are making a *de novo* judgment. We are being asked whether we wish to authorize the expenditure of \$95,000 of Canadian taxpayers' money for the work that has been proposed by the committee that we have established. It is simply that.

It may be argued, in light of the events of September 11, that it was very wise of the Senate to establish a committee dedicated to defence and security and that it was wise to change the name, as we did the other day, from "defence and security" to "national security and defence."

If I have understood correctly, if we adopt this motion this afternoon, we will have authorized this committee to spend up to \$196,000. That is a lot of money compared to the budgets of all the other committees. Whether or not it is expended is an accounting question.

The question of why we should be spending this amount of money must be answered, honourable senators. Why are so many trips necessary to carry out the mandate clarification study? Could the number of senators taking part in these fact-finding trips be reduced? Are there other ways in which the budget could be pared down?

It is the process that concerns me. It seems to me that the Standing Committee on Internal Economy, Budgets and Administration has some responsibility here. Perhaps we need to understand how questions are asked of committee chairs when they submit their budgets. Perhaps it was the opinion of the members of Internal Economy that the Chairman of the National Security and Defence Committee made a good case.

We have received a recommendation that this budget proposal from the National Security and Defence Committee be adopted.

In terms of person years, it is my understanding that the committee is requesting three consultants. I wonder why a committee that is sorting out its mandate needs three consultants.

In the "Explanation of Cost Elements" under "Professional and Other Services," the budget submission provides for a consultant on military matters for 10 months at \$2,400 per month for a total of \$24,000; another consultant on policing and prisons at a cost of \$24,000; and a third consultant, this one on intelligence matters, for only \$12,000.

We changed the name of the committee only the other day, indicating a greater focus, presumably in light of September 11, on issues of intelligence. In that case, why would the committee spend \$48,000 on policing and military issues and only \$12,000 on intelligence issues? These questions must be answered if we are to make an intelligent judgment.

There is a submission for travel within Canada and travel outside of Canada. That travel is under the heading "Travel to Conferences and Meetings in Canada — Vancouver, Calgary, Toronto, Quebec City and Halifax; in US — Washington; and in Europe — Brussels." The budget item for that is \$54,750.

• (1750)

I am curious in that I did receive another document indicating some of the travel expenditures already incurred by the committee, and on the list is a trip to Oslo. With your permission, I will find it, because it is important.

If the honourable senator wishes to speak, please do so.

Hon. Laurier L. LaPierre: I was wondering if Senator Kinsella had the same itinerary breakdown of the expenses of all the other committees, and whether he intended going through that today, or is the honourable senator only interested in the committee that is now called the Standing Senate Committee on National Defence and Security?

Senator Kinsella: I thank the honourable senator for the question. I am obviously only interested in the committee that is the subject matter of the motion being debated this afternoon.

It is reported in this document that there was a trip between September 3 and 8 to Oslo, at a cost of \$5,511.35. In fact, a total of \$13,000 appears at the bottom. In the budget submission, I cannot find mention of Oslo anywhere. Again, in terms of process, how does a member of a committee obtain permission to spend committee money to go to Oslo when that was not even part of the plan, so far as the documents I have read are concerned? Honourable senators, no doubt there are clear explanations for all of these things but I have not heard them in this chamber.

This is the juncture that we are at now: The work and the process has not been sufficiently effective and there has not been sufficient clarity in this matter, to this point, in the chamber, where we would much prefer not to be debating this issue in a micromanagement fashion, but that is the problem here.

Honourable senators, if the committee has not spent all of the money that has already been allocated to it, what is the rush? Let us try to get to the bottom of this thing and try to sort out the process so that the committee would know that it has the full support of the chamber in the conduct of its important work.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the debate today goes to the fundamental purpose of the committees that we organize, the budgetary process that we have put into place and the approval of mandates and, ultimately, budgets.

I have long thought that we did it all wrong. It seems to me that we should not put the burden on the Standing Committee on Internal Economy, Budgets and Administration to determine what a budget for a particular committee should be, after the Senate has already approved the mandate of that committee, yet that is what we do. We let committees, through their chairs, bring forward mandates to this body. Frankly, senators, we rarely debate them. A senator says, "I would like to do a study on this," or "I would like to do a study on that," or a committee says, "We would like to do this study." We not only do not debate them for their own merit, we do not even set them up according to their priorities, saying, "Well, this is the year 2002-03, we cannot study 25 different things in any depth and with any great development, so let us choose the five, six or seven that we feel we could do a first-class job on in that particular period of time."

What we do is we approve the mandate, and then we allow that committee chair, with his approved mandate, to go before the Standing Committee on Internal Economy, Budgets and Administration, first through the budgets committee and then to the main committee, and they are all left, I would suggest, in a difficult position. The Senate has approved the mandate and says they have permission to do this valuable work. This is what their committee chair says it will cost to do this valuable work, and so it is approved. In recent years, the Internal Economy Committee has been approving in tranches, 25 per cent here and 25 per cent there.

Honourable senators, it is difficult to compare the work of one committee with another committee. It may be replaced by the Standing Senate Committee on Human Rights, but traditionally in this chamber the committee that has spent the least amount of money has been the Standing Senate Committee on Legal and Constitutional Affairs, which is also the committee that traditionally has sat the most time, dealt with the greatest amount of legislation and could arguably be called the most effective committee in the Senate. Why do they not spend a great deal of money? They do not spend a great deal of money because they are so busy with government legislation that they never travel. They never move outside of Ottawa. They do their work here, two days a week sometimes, and now three days a week, because they have a heavy government agenda laid before them and they must deal with it to the best of their ability.

On the other hand, we have had special committees for which we have approved quite costly budgets. I chaired a subcommittee of the Standing Senate Committee on Social Affairs, Science and Technology on palliative care, the right of every Canadian to quality end-of-life care. I think our final amount spent was \$7,000. I believe we produced a pretty good report but, to be fair, it was mainly based on an earlier Senate report that had spent over \$300,000. All we were doing was examining the recommendations and what had happened to those recommendations, which was unfortunately not much, five years after the fact. It is difficult to make a value judgment as to whether the actual expenditure of money has made that committee worthwhile. I think honourable senators would find far too many variables.

What is my difficulty right now with this motion? It seems that we have chosen one committee with which to be particularly careful about placing it under the microscope, whereas we have not done that to other committees. I am not sure that is totally fair to this particular committee. Having said that, it is one of the committees demanding a larger portion of the overall Senate budget for committees than other committees, although there are some within that same range. I do not want to say that it is the only one in that range. There are five or six others that are in that range of expenditure of money.

What I would hope would come from this debate is the following: I would hope that the members of the Standing Senate Committee on National Security and Defence would go back and

look again at their proposed expenditures for the balance of this fiscal year, that they would take a careful look at how much they have spent to this point in time, and determine whether they need the third and the fourth set of expenditures, or whether they have enough money now to exist on, if you will, for the remainder of the year. I would hope that other committees would do exactly the same thing.

Honourable senators, it is important that Canadians get good value for the work we do in this institution. It behooves us as members of any committee to ask whether we are getting the best bang for our buck, if you will, and whether we could look at alternatives to travel — although I think travel, in many instances, is a good thing. Could video conferencing, in some instances, be as valuable as a personal visit? Could we stand up in the court of public opinion as members of a committee and justify every single dollar that we have spent? If we can do that, and if we can hold our heads high as members of committees and say, “Yes, that was good value,” then we have done the best that we possibly could have done as members of the committee.

• (1800)

I hope that we can move past this particular debate on this particular committee to a broader debate and a broader consideration of all committees and whether we are getting good value.

The Hon. the Speaker: Honourable senators, it is six o'clock, and I am obliged under the rules to rise and adjourn unless there is unanimous consent not to see the clock. Shall we not see the clock?

Hon. Senators: Agreed.

Hon. A. Raynell Andreychuk: I am pleased at what the Leader of the Government in the Senate had to say about looking at all the committees. I think we do a good job in all of our committees, and we try to do the best we can. However, the taxpayers, the people of Canada, have limited means. We want to be sure that we use the dollars fairly and adequately. We could study many more issues than we do. There is merit in doing it differently, and in travelling to obtain the kind of education and information that we need from all the corners of the world. However, the problem is always one of dollars.

Eight years ago, I asked the Standing Committee on Internal Economy, Budgets and Administration a question that they have yet to answer: that is, if we knew how many dollars there were, then each one of us could try to narrow down the art of the possible for our committee. In that, there would be some fairness. The difficulty is that we do not have any sort of guideline on how to apportion across the committees, and consequently each committee is free to approach its work differently. That is when the inequities begin to show up. How do we drive a process so that the committees know what the dollar limits are, and work within that mandate?

If there is a committee that needs to seek foreign opinions and information, it is the Foreign Affairs Committee. It could be on the go, as is the House of Commons' committee, a fair bit of the time, and they do very valuable work because of that. I will not speak for the present chair. He can speak for himself. The previous chair always said, "I must be mindful that there are only so many dollars. We must curtail our work. We will not travel. We will see if we can do a chunk of what we really want to do, because that is all we can afford to do."

I am trying to support the Government Leader in the Senate. It is true that we must dare to stand up and question our colleagues more, but surely we also need to know what the budget is. I keep hearing that the budget is a global budget of X number of dollars. Then I hear of something called "supplementals." I never know whether I should gear my request and my support for chairs of committees based on the global budget figure that I hear or whether I should just say, "Well, the sky is the limit because we can always get more." I would like to know what the outer limits are, what a fair apportionment is, and I would like us all to work with it.

In the embassies in which I worked, we knew certain embassies got more than we did because they were more in the eye of the storm, but we all knew that there was some apportioning for all of us. It was not who gets in there first, and it was not the squeaky wheel. There was some fairness. Whether we are judging the committee that is the subject matter here or others, it is very unfair when there are not some guidelines.

I appreciate what the honourable senator has said, but it seems to me that there is a piece that needs to be put in place. Would you agree?

Senator Carstairs: I do agree that there is a serious piece that needs to be put in place. We have a budgetary process in the Senate. It starts in the Internal Economy Committee. The budgets are eventually signed by the Speaker and submitted to the Government of Canada for each fiscal year. The year 2002-03 will shortly be upon us. The Internal Economy Committee is, at the present time, working on what that overall budget will be, and one portion of that overall budget will be committees. That is the way it has always worked.

What piece is missing? We do not seek from the committee chairs now, while the Internal Economy Committee is doing their review of the budgetary needs for the next fiscal year, what it is that they think they will need as a committee for the next fiscal year. That is where we must start thinking more ahead, if you will, to what the ultimate figure is.

In terms of your question with respect to supplementals, that really does open something of a minefield, and I will attempt to address it as best I can. The parliamentary process, both in this place and in the other place, always goes seeking supplementals. Supplementals are additional requirements that you may need. Some supplementals make perfectly good sense in that that need could not possibly have been identified earlier.

For example, when we voted for a bill that gave us a substantial wage increase, obviously we had to find the dollars for that wage increase. The government clearly made it known that since they were supportive of the wage increase, they were also supportive of the need for the supplementals to create the necessary moneys for that wage increase. That is a perfectly reasonable thing.

I did sit on the Internal Economy Committee for a period of time, and there was the sense that, "Well, committees are such a jewel of the Senate that if we put in for additional moneys for committees, no one would dare say 'no' to us." I think we will be reaching a point in the budgetary process where, for next year, that may not be true. There will be many demands on governments in relation to issues of defence and security, and we will perhaps not have the same kind of flexibility.

I would like to see us start on this process now and have our committees identify what they think their needs will be for next year so that the Internal Economy Committee, when it is submitting its budget, can have a better comprehension. Getting the budget and then saying on April 1, "Okay everyone, give me your wish list," is working backwards to the way we should be working.

Hon. Lowell Murray: I congratulate the Leader of the Government on her speech. I think she has given the leadership that the Senate has a right to expect on a matter of this kind. Her concerns, as she will know, are not entirely new. They have been around for a good long time.

That being said, one thought occurs to me as a way of dealing with these matters in the future. Does the honourable senator think that we could reach some sort of informal or formal agreement under which, in any 12-month period, there would be a limited number of special studies undertaken by committees and a global budget put out for that, and then divided appropriately? It might be four committees, or five, or fewer. I would not attempt to put a number on it right now. That is one thought that occurs to me. A 12-month planning period is not too long. It is quite "do-able."

The second thought that occurs to me is that while there are studies — such as the health study that is going forward now — that have gone on, and will have gone on for several years, in general does the honourable senator think that, when we decide to hold special studies, we could insist that, from opening gavel to report, they be conducted and concluded within a 12-month period, indeed within a fiscal year?

Senator Carstairs: Honourable senators, I disagree with both of Senator Murray's points. First, I would not like to just see a one-year plan; I would almost like to see a five-year plan. In order to maintain the rule that we are only to do four special studies per year, it might be appropriate to say to someone who also asked to conduct a special study, "Not this year, but next year. We cannot fit you into this schedule, but perhaps we can fit your special study in in the following year."

• (1810)

Ideally, I should like to see studies completed in a one-year time frame. Some of them could be if they were narrow enough like the equalization study. That is a perfect example. The quality-of-life study was a perfectly natural one to fit into a relatively short period of time.

Other studies, by their very nature, will probably go on for a longer period of time. For example, that the Standing Senate Committee on Foreign Affairs has been doing a special study on Ukraine. Circumstances are such right now that a visit to Ukraine or Russia is probably not something in which one wants to engage. To put it off until the spring makes perfect sense to me. That would then carry the report over a longer period of time. We must be flexible.

Honourable senators, I agree. We should try, if we can, to limit our special studies, remembering that our most important function as committees is the legislative function. I also should like to see us come up with a time frame.

Hon. Richard H. Kroft: Honourable senators, I welcome this debate led by the Leader of the Government in the Senate. The issue of priorities is a critical one. It is one with which I have been preoccupied since taking on the chairmanship of the Standing Committee on Internal Economy, Budgets, and Administration and the chairmanship of the Subcommittee on Budgets. Hopefully, the debate will continue and we will find some useful answers.

However, I do not want to get away from the specifics of the issue at hand. There have been suggestions and views expressed of the process in this particular budget and committee that should be addressed in the interests of our process and in the interests of the Standing Committee on Internal Economy, Budgets and Administration, and very much in the interests of the Standing Senate Committee on National Security and Defence.

Due to the interest Senator Murray and many others have shown, and because of the newness of this committee and the number of committees that have come before, there are few committees of which I can think, and certainly none in this year, that have received the attention that this particular committee has. The Standing Committee on Rules, Procedures and the Rights of Parliament spent a great deal of time on the subject of name and on the subject of mandate.

I want to pause on this question of mandate. With all due respect for the skills in this chamber of Senator Murray, we have been spun a little into this question of a committee in search of a mandate. I do not think there is any doubt as to the mandate of the committee. It may be broad and it may get definition as time goes on. However, this chamber said that the Senate should have a committee that appropriately preoccupies itself with defence and security matters, and that we should get about the business of doing that.

Senator Kenny took on the chairmanship and a committee was struck for that purpose. We all hear again and again in the media,

this chamber and the other place that we do not understand the lives of our Armed Forces; we do not understand what life at sea is like. Senator Forrestall is always telling us to talk to the people who are flying these things; they will tell you what it is really like.

We have a committee that has been struck and set up with very capable senators who are ready to work hard. What are they supposed to do? They are supposed to sit in Ottawa and get, if I can say with all due respect to our officials and our Armed Forces, an official line. We have been stuck with an official command line for a long time.

This committee was charged with the task of finding the real facts and of getting a real sense of what is going on in this country in terms of our Armed Forces. That is very much the case since September 11 in a wider range of things. The committee has set out to do that.

When the Internal Economy Committee and the subcommittee examined this budget, it did not merely take a set of figures and pick a name — it went to the mandate. Questions were asked about why trips would be made. To where would trips be made? What would be done on these trips?

That process was followed absolutely, Senator Kinsella and Senator Bryden. There is not a question of process here. There is not a committee that has had better process here. Nor is there a committee that has accounted for itself in this chamber as fully as has this committee through its chairman Senator Kenny.

If one goes to the *Debates of the Senate*, one will find that from the time the questions were asked, there has been an accounting, an explanation, a work path, a work plan and a budget structure set out before all senators. Not one committee could stand up to the scrutiny that this one has.

I do not stand here as any particular defender of this or any other committee. However, I do stand as the Chairman of Standing Committee on Internal Economy, Budgets and Administration because the processes with which we have been charged by this house have been called into question.

Hon. Consiglio Di Nino: Will Senator Kroft accept a question?

Senator Kroft: I will.

Senator Di Nino: This has been a useful debate. It is probably overdue. We have talked around this issue in committee. I served for a number of years on the Standing Committee on Internal Economy, Budgets and Administration, and the honourable senator has my condolences. It is the most difficult of all the committees upon which I served. With my condolences comes my highest esteem.

The debate deals with the fundamental principles of which we, as senators, should be aware. That principle is the expenditure of public funds in the discharge of our responsibilities. As I said before, the debate is very useful.

One of the questions that is raised frequently is the openness of this kind of a discussion. It is good that it be done on the floor of the chamber. Transparency is another word that is used.

I ask Senator Kroft the following question: With respect to these discussions on budgets of committees that take place either in the subcommittee and/or the full committee, are they conducted in a public forum or *in camera*?

Senator Kroft: Honourable senators, I will respond as best I can. I believe that the meetings of the Subcommittee of Internal Economy are *in camera*. Senator Furey might be able to confirm that.

Any senator can attend any meeting. My honourable friend is concerned more with the public aspect as opposed to other senators attending.

Meetings of Standing Committee on Internal Economy, Budgets and Administration have traditionally been held *in camera*. However, there are circumstances when we are discussing matters that are held publicly. The tradition of the Senate, and I stand to be corrected, is that the Internal Economy Committee meetings are held *in camera*.

Senator Di Nino: It is important that this kind of discussion take place. Senator Kroft was very eloquent in his comments on this committee, and I applaud him for that. The public has a right to know.

• (1820)

The record will show that I insisted, away back when, that that discussion on budgets for committees be held in an open meeting rather than during an *in camera* meeting. In that way, the record could show, for anyone who has an interest, the amount of money expended, why it was expended or how it will be expended, and the justification for the expenditure. It is important that this be on the public record and not hidden in a corner, which gives the impression, or the perception, that we are not encouraging scrutiny by the public of our expenditures, particularly of this nature. Has the Honourable Senator Kroft an opinion on that?

Senator Kroft: Honourable senators, I am always in favour of openness and honesty. As honourable senators, we are faced with a long-standing parliamentary tradition, which I believe is true in the other place as well. The budgeting processes of the Standing Senate Committee on Internal Economy, Budgets and Administration and the Board of Internal Economy in the other place are *in camera* decisions.

My own view is that the process of budgeting in itself, and the process of the debate and the tradeoffs that are inherent parts of that, while interesting, may not be most effective for the public interest by being done in a public forum. The results, the understanding of those results, the understanding of where we are spending our money, how we are spending our money and the accountability with which we are spending our money, should be

well understood by the public and should be available to the public. It is a matter of process.

Honourable senators, for the moment, I can only stand with the parliamentary tradition as we found it.

Senator Di Nino: For clarification, I am not talking about the budget process, but I am talking about the presentations by committees of their budgets for the expenses that they will incur, either domestically or internationally, for travel, et cetera. If the honourable senator will look back, he will find that a number of years ago, the practice of the Internal Economy Committee was to demand that those be made in open meetings. I certainly participated in enough of them and, unless my memory fails me, I am sure that they were not held *in camera*.

Senator Cools: I thank the Honourable Senator Kroft for his insightful and thoughtful intervention. I especially appreciated the light that he shed on this particular subject and for the clarification that he provided to this chamber that Senator Kenny had followed the proper budgetary process and that he had fulfilled all that was required for that particular committee.

Honourable senators, I raised this question on a point of order about one hour or so ago that these questions had been raised by Senator Bryden and that they should be answered, particularly in respect of any thoughts that might be created in the public mind that Senator Kenny or the Standing Senate Committee on National Security and Defence had not acted properly and within the proper framework.

In debate, Senator Bryden had raised another question. I would be pleased if the Chairman of the Standing Committee on Internal Economy, Budgets and Administration could respond to that question which concerned the redefining of the Senate committee and the name change. Senator Bryden has essentially said that parts of this new committee's mandate had been withdrawn from the Foreign Affairs Committee.

Could Senator Kroft comment on that for the record, particularly on the long-standing tradition, not only of the Senate but also of the country as a whole, that questions of defence and security were usually treated as part of the larger question of foreign affairs. It is important, Senator Kroft, that the public mind be satisfied and that the Senate mind be satisfied that all is in order.

Senator Kroft: Honourable senators, it is beyond the scope of the Internal Economy Committee to answer that question. We received a final product that had to be budgeted. In fact, it has been a matter for the Rules Committee, and working with other committees, to define the range of their subject matter.

Some Hon. Senators: Question!

The Hon. the Speaker: Is the house ready for the question?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

An Hon. Senator: On division.

Motion agreed to and report adopted, on division.

[Earlier]

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET DURING
SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Leonard J. Gustafson: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Agriculture and Forestry have the power to sit at 6:00 p.m. today for the purpose of hearing from the Minister of Natural Resources and Minister responsible for the Canadian Wheat Board, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING
SITTING OF THE SENATE

Hon. Peter A. Stollery: Honourable senators, as we are talked earlier about efficiency, the Standing Senate Committee on Foreign Affairs had a meeting scheduled for six o'clock. I would ask honourable senators if the Foreign Affairs Committee could be allowed to proceed with its meeting. I believe that our witness is in the gallery.

The Hon. the Speaker: Honourable senators, the Honourable Senator Stollery is interrupting to ask leave to revert to Notices of Motions to put a motion before the house that would allow his committee to sit.

Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Stollery: Honourable senators, I move, seconded by the Honourable Senator De Bané:

That the Standing Senate Committee on Foreign Affairs have power to sit at 6:15 today even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is it your pleasure, honourable senators to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

NATIONAL HORSE OF CANADA BILL

REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on Agriculture and Forestry (Bill S-22, to provide for the recognition of the *Canadien* Horse as the national horse of Canada, with amendments), presented in the Senate on October 31, 2001.—(*Honourable Senator Gustafson*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition), for Senator Gustafson, moved the adoption of the report.

Hon. Lowell Murray: Honourable senators, I rise to speak to Bill S-22, to provide for the recognition of the *Canadien* Horse as the national horse of Canada.

Those of you who are avid readers of *The Globe and Mail* may have seen, in Saturday's edition, a book review written by Elizabeth Renzetti. The book in question was written by Lawrence Scanlan and published by Random House Canada. The title of the book is *Little Horse of Iron: A Quest for the Canadian Horse*.

The *Canadien* is the horse that is the subject matter of Bill S-22. I do not know for certain whether the debate on this bill will help to sell the book or whether the book will help to propel the bill through the Senate and the House of Commons. I am hopeful that both will be the case. Honourable senators, I draw your attention to this matter.

Among other things, Ms Renzetti points out that this breed — the *Canadien* — is so little known in Canada that it faced extinction as recently as the latter half of the 20th century. Ms Renzetti also stated in her review:

Yet until recently, only a handful of aficionados and history nuts knew the characteristic traits of the *Canadien* — the ability to trot all day, the amazing strength — that made it such an important player in the story of this country.

The review continues, as the book does, with the tracing of the history of this horse. I have placed this information on the record with some help from my friends during the second reading debate. A number of these horses — two stallions and 20 mares — were a gift from Louis XIV in 1665 and, as the review mentioned:

Eventually, the descendants of these horses would become favourites of the habitants, lend their blood to today's standardbred, go to battle in the Civil and Boer wars, and suffer terribly in the Great War.

Honourable senators, Bill S-22, after second reading, went to the Standing Senate Committee on Agriculture and Forestry, which held three meetings on this bill, on October 16, 23, and 30.

• (1830)

The committee heard from 12 witnesses, including Mr. Guy Paquet and Mr. Denis Robitaille from the Société des Éleveurs de Chevaux Canadiens; from Ray Lalonde, the president, and Jerry Lalonde, a member of the Upper Canada (Ontario) District Horse Breeders; from Dr. Kelly Ferguson and Alex Hayward of the Canadian Horse Breeders of Ontario; from Dan Wilson of Woodmont Angus Farms in British Columbia; from Darkise St-Arnaud, la présidente, and André Auclair, vice-président de l'Association québécoise du cheval canadien, and from Me Yves Bernatchez, président du Fonds commun des races du patrimoine. Finally, on October 30, Mr. Murray Calder, MP, and I appeared before the committee in support of the bill.

Let me inform honourable senators that all the witnesses who appeared before the committee were strongly supportive of the bill.

There were two issues that might be of interest to the Senate. One concerned standards. I hasten to remark that standards are not established by the government. The government recognizes the breed associations under the Animal Pedigree Act and the breed associations determine the standards. Some of the proponents of this bill are very anxious about maintaining the historic standards of this breed and they hope and believe that this bill, symbolic as it is, will help to do that, to maintain the standards.

However, there are different perspectives on this. The aforementioned Mr. Wilson, when he appeared before the committee on October 23, said:

Frankly, it is the buying public who will decide the standard of the horse. If we want this horse to survive we must evolve the horse to meet the changing society... We are lucky today because people are moving into pleasure riding and the Canadian horse fits well into that area.

To this, a contrary statement was made on behalf of quite a number of the witnesses by Mr. Auclair, to whom I referred earlier.

[Translation]

At the October 23 meeting of the Standing Senate Committee on Agriculture and Forestry, Mr. Auclair said:

Instead, we must promote the excellence and quality of our product, which has well established characteristics. It is within these parameters that the breed must constantly be improved and not on demand.

[English]

Just for the record, the standards that they are talking about are: 15.3 hands in height for the stallion, and 15.2 for mares; otherwise in the records of the breed association, between 14 and 16 hands, and between 1,000 and 1,400 pounds in weight.

The other issue that arose, interestingly enough, perhaps inevitably in this country, was a language issue. You will note that Bill S-22, as it now stands, refers in the English version to "the Canadian horse" and in the French version to "le cheval de race canadienne."

As far back as 1905, when this horse was given official recognition in the records, it was called, in English, "the French Canadian horse," and "le cheval canadien" in French.

In 1935, the then Minister of Agriculture, James Gardiner, decreed that the word "French" should be dropped and the horse should be known as "the Canadian horse" in English. Taking their cue from that, the Breeders Association went on to call the horse "the Canadian horse" in English and "le cheval canadien" in French.

The Quebec National Assembly, which, like Parliament, is required to pass its laws in both languages, in 1999 passed a law designating "le cheval canadien comme faisant partie du patrimoine du Québec," in the French version, and the "Canadian horse" as forming part of the agricultural heritage of Quebec in the English version.

Jurilinguists were consulted as we proceeded with this bill and the result of all of this was that I asked the committee to amend the bill to designate this animal in English as "the Canadian Horse" and in French as "le cheval canadien." Senator Day, un bon bilingue du Nouveau-Brunswick, gave me his cooperation on this matter and presented the amendments that have been endorsed by the committee.

In *The Globe and Mail* report to which I referred, the reviewer says:

At one point, the Canadian even mirrored the country's fractured soul as a fight developed between the federal government and that of Quebec over who would symbolically claim the breed as its own: Was he the Canadian horse, or *le cheval canadien*?

The answer, honourable senators, is that, if this bill passes, he will be both the Canadian horse and le cheval canadien. He will be both in Canada, as indeed he, or she, is in Quebec.

It remains only for me, in conclusion, to thank the chairman, Senator Gustafson, and the members of the committee for the thorough and serious way in which they canvassed all the issues over a period of three meetings and 12 witnesses. The conduct of that committee is really a source of pride and satisfaction to the witnesses who appeared and to other proponents of this bill.

I thank Senator Wiebe for having given me his support for this bill at second reading, and Senator Fairbairn, who has been constant in her support, as she is in her considerable knowledge of this breed.

Just as the committee was adjourning, a week ago, we had had several witnesses from Quebec, Ontario and British Columbia, and the chairman said: "I was impressed by the sense of unity." Honourable senators, I can think of no better words with which to commend these amendments and this bill to your support.

Before I sit down, it is not perhaps for me to say, but there is a Liberal senator who would like to take part in this debate, and rather than let the bill go through immediately, my friends opposite might like to take the adjournment in her name. That will be Senator Hubley of Prince Edward Island. She probably thought that we would not be proceeding as we did this evening.

On motion of Senator Robichaud, for Senator Hubley, debate adjourned.

[Translation]

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, given the lateness of the hour, I believe that there would be unanimous consent to have all items on the Orders of the Day and on the Order Paper not yet discussed stood until the next sitting of the Senate, with the exception of Motion No. 87 by Senator Milne.

[English]

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Marcel Prud'homme: Honourable senators, I was just coming back to speak on all my items, even though it is very late. I did not know that it was the intention of my friend Senator Robichaud to put such a proposal. In the good spirit that we must always show to each other, I am ready — do not provoke me — to accept with great pleasure to make it unanimous, if such is the wish of my colleagues, of course.

Hon. Senators: Hear, hear!

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): That is with the understanding that the items that are stood maintain their status.

• 1840)

Senator Prud'homme: As I said, there are many new senators, and I always feel as though I am a new senator. The four items that stand in my name that are on the fourteenth day will remain at the fourteenth day tomorrow. Am I correct that the earliest we could debate them is Thursday?

The Hon. the Speaker: That is correct. When we say "stand in their place" it means that they remain on the Order Paper with the same number of days that have passed since they were last debated.

Motion agreed to.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO REVIEW REFERENDUM
REGULATION PROPOSED BY CHIEF ELECTORAL OFFICER

Hon. Lorna Milne, pursuant to notice of November 1, 2001, moved:

That the Standing Senate Committee on Legal and Constitutional Affairs be empowered to review the regulation proposed by the Chief Electoral Officer, tabled in the Senate on October 16, 2001; and

That the Committee report to the Senate no later than November 29, 2001.

She said: Honourable senators, the Chief Electoral Officer of Canada deposited with the Clerk of the Senate a copy of the proposed referendum regulations and they were tabled in the Senate on October 16, 2001.

The Referendum Act provides, in section 7, that the Chief Electoral Officer may, by regulation, adapt the Canada Elections Act in such a manner as he or she considers necessary for the purposes of applying that act in respect of a referendum.

The Referendum Act deals only with certain matters and it incorporates by reference other provisions from the Canada Elections Act. The objective of adapting the Canada Elections Act for the purposes of a referendum is to permit the referendum process to function within a framework that is, as much as possible, identical to that of an election.

Section 7 of the act further provides that a copy of each regulation is to be deposited with the clerks of the Senate and the House of Commons at least seven days before the day on which the regulation is proposed to be made. The regulation stands referred to such committee of the Senate, if any, as is designated or established prior to the deposit to review the regulation.

This regulation adapting the Canada Elections Act for the purposes of a referendum was first made in 1992 and was subsequently amended to reflect changes in electoral legislation. In all of these cases, the proposed referendum regulation was reviewed by the Standing Senate Committee on Legal and Constitutional Affairs. This is the committee that traditionally deals with matters and legislation relating to elections and referenda. Indeed, the draft regulation now before the Senate would adopt the provisions of Bill C-2, the new Canada Elections Act, which was studied by the Standing Senate Committee on Legal and Constitutional Affairs in March and April of 2000. As well, this spring the committee examined Bill C-9, which made changes to the Canada Elections Act that are also reflected in these proposed regulations.

The committee wishes to meet with Mr. Jean-Pierre Kingsley, the Chief Electoral Officer, this Thursday, November 8, to review and discuss the proposed referendum regulations. It is very important that the Senate of Canada exercise its duty under section 7 of the Referendum Act. It is an important oversight function of our committee.

Hon. Lowell Murray: What is the proposed coming-into-force date for these regulations? Also, is it one regulation or several?

Senator Milne: Senator Murray, the proposed regulations are about half an inch thick. Although Mr. Kingsley is enabled by legislation to proceed with these regulations seven days after he has deposited them and they have been tabled in the Senate, he has kindly agreed to postpone proceeding with them until he has appeared before the committee. The committee is now asking for a mandate from the Senate to meet with Mr. Kingsley on Thursday morning.

Senator Murray: Since I doubt that there is any urgency to this matter, I trust that he would agree to wait until he has the committee's report before he allows the regulations to come into force?

Senator Milne: I am confident that he will.

Motion agreed to.

The Senate adjourned until Wednesday, November 7, 2001 at 1:30 p.m.

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Wednesday, November 7, 2001

THE HONOURABLE DAN HAYS
SPEAKER



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THE SENATE

Wednesday, November 7, 2001

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to the presence in the gallery of the Australian High Commissioner, His Excellency John Anthony Hely, and Mrs. Wendy Altea Jeffrey.

Good luck on your new posting to Canada.

Hon. Senators: Hear, hear!

The Hon. the Speaker: On behalf of all honourable senators, I bid you both welcome to the Senate of Canada.

SENATORS' STATEMENTS

HUMANITIES AND SOCIAL SCIENCES FEDERATION OF CANADA

Hon. Lois M. Wilson: Honourable senators, I rise to inform the Senate about the ongoing work of the Humanities and Social Sciences Federation of Canada and the thousands of researchers whose work it supports. Quite recently, senators as well as 301 members in the other place received a brochure from this body, and I wish to highlight its importance for all Canadians.

On November 5 at the National Gallery of Canada, the Natural Sciences and Engineering Research Council of Canada hosted its awards gala — awards of excellence, fellowship and prizes. Canada honoured ecologist David Schindler with the award of the Herzberg Medal, Canada's biggest scientific prize.

Equally important, although not as well known, is the work of the Humanities and Social Sciences Federation of Canada. I will provide two illustrations of the importance of its work.

Today, we all speak of the global village, a concept created and written about by Marshall McLuhan, who earned his MA at the University of Manitoba and later taught at St. Michael's College, University of Toronto, from 1946 to 1979.

When discussing the demographic shift and its profound societal effects, we commonly refer to the boom, bust or echo generations, concepts created and written about by David Foot, Professor of Economics at the University of Toronto.

• (1340)

The writings of these two notable Canadian researchers, as well as those of the more than 18,000 faculty in Canadian universities who work in the humanities and social sciences, are precious national treasures. Their research advances our understanding of the histories, the attitudes and the values shaping human behaviour. It allows individuals, communities, organizations and societies to better understand the major social and cultural transformations affecting us.

The tragic events recently in the United States illustrate the essential contribution humanities and social sciences research make in our everyday lives. We cannot go a day without seeing a media outlet quoting from an interview they conducted with researchers in the fields of either culture, religion, international relations or psychology, to name but a few.

Our political system also benefits from their research. The majority of academic experts we call upon to provide testimony at our parliamentary committees are researchers active in the humanities and social sciences. So we honour research excellence, particularly lifting up the important work done by the researchers who work in the humanities and social sciences in Canada on a consistent and a continuing basis.

THE HONOURABLE TOMMY BANKS

EXPRESSION OF GRATITUDE FOR CONDOLENCES

Hon. Tommy Banks: Honourable senators, I wish to thank honourable senators on all sides of this house and members in the other place and members of the parliamentary staff for the extreme kindness you have all shown to Ida and me during the past few difficult weeks. The clearly heartfelt nature of your messages of condolence to us have been very comforting. I want you to know how very grateful my family and I are for that. Thank you.

DR. DAVID SCHINDLER

CONGRATULATIONS ON RECEIVING THE GERHARD HERZBERG AWARD

Hon. Tommy Banks: On a much happier note, honourable senators, I wish to refer to a matter that Senator Wilson has already mentioned and to ask you to join me in congratulating a brilliant scientist, a quality teacher, an advocate for environmental integrity, a man who chose to make Canada and, I am proud to say, Edmonton his adopted home.

On Monday, David Schindler, as Senator Wilson said, added to his lengthy list of awards the prestigious Gerhard Herzberg Canada Gold Medal for Science and Engineering. That list of awards fills this page; I will not bother to read them to all.

The Gerhard Herzberg award is meant to celebrate Canada's most outstanding scientists and engineers and to raise public awareness about the major contributions that Canada's top researchers make to international science and technology and to bettering people's lives. The prize is \$1 million. It is typical of Mr. Schindler that, when he received that prize, he said, in effect, "Now I can really get down to work."

He is currently the Killam Memorial Professor of Ecology at the University of Alberta and a consultant on many environmental studies across Canada, during the course of which he has succeeded in making industry and all levels of government exceedingly angry at one point or another — so he must be doing something right.

Mr. Schindler is a native of the United States, but in 1992 he took out Canadian citizenship, expressing his love for our country and its environment, calling himself a kind of "ecological refugee." He continues to warn us:

...not to take for granted the relatively pristine lakes and streams, the wildlife in the forest, and the fresh air because they sure don't have any more of it where I come from.

Mr. Schindler is not one to back down from controversial matters. We hope he will continue to follow that pattern. Please join me in congratulating David Schindler, a brilliant and creative person who demonstrates that bright and innovative brains drain into this country.

[Translation]

CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION

DECISION REGARDING CABLE PUBLIC AFFAIRS CHANNEL

Hon. Jean Robert Gauthier: Honourable senators, the Canadian Radio-Television and Telecommunications Commission, CRTC, brought down its decision yesterday, November 6, 2001, concerning the rebroadcasting of the debates of the House of Commons by CPAC, the Cable Public Affairs Channel.

This extremely important decision will have an impact on the entire country, because it will make it possible for viewers to have access to the debates of the House of Commons and its committees, and in the official language of their choice.

The Council also announced its intention to amend the regulations so that class 1 and 2 licenced broadcasting retransmission undertakings using direct satellite distribution must retransmit the debates of the House of Commons and the various committees. It also required this to be part of its basic service and in both official languages. The modified regulations will take effect on September 1, 2002, or less than a year from now.

This decision by the CRTC is the result of an investigation by the Commissioner of Official Languages, a study by a parliamentary commission and a public notice by the CRTC, Public Notice 2001-115, in which everyone recognized from the outset the importance of all Canadians having access to the debates of the House of Commons and its committees.

In this decision, there was only one dark cloud, the absence of the Senate. Not a word was said of the Senate's broadcasting needs. We know that the agreement with CPAC expired last year. Negotiations are underway, and we have less than a year to make important decisions and to send the message to Canadians that Parliament has two chambers, the House of Commons and the Senate.

The Senate is also involved in the debates and must be a party to the decisions taken in this Parliament.

[English]

GOVERNOR GENERAL'S PERFORMING ARTS AWARDS

Hon. Laurier L. LaPierre: Honourable senators, on Sunday evening, November 3, an event took place at the National Arts Centre, an event of great national importance. I am speaking of the gala honouring the recipients of this year's Governor General's Performing Arts Awards, honouring Mario Bernardi, the founder and first conductor of the National Arts Centre Orchestra in 1969; "Old Rawhide" himself, incarnated this time as Max Ferguson; the exquisite Evelyn Hart of the Royal Winnipeg Ballet; Christopher Plummer, who illuminates the theatres of Canada; Anne Claire Poirier, a pioneer in film-making; Thea Borlase, who has taught us that volunteer time is more important than money; and Édouard Lock of La La La Human Steps.

I remind honourable senators of this event and of these Canadian artists to impress upon everyone the fact that, as Richard Monette, Artistic Director of the Stratford Festival, told his staff at the end of 2001 season: Art provides communion in the midst of confusion; it provides order and sanity when there is chaos; it brings beauty when there is ugliness; it is redemptive in the face of fear; and it heals through laughter and through tears.

DR. DAVID SCHINDLER

CONGRATULATIONS ON RECEIVING THE GERHARD HERZBERG AWARD

Hon. Mira Spivak: Honourable senators, I also wish to pay tribute, as Senator Banks has done, to David Schindler, Canada's most famous freshwater scientist. As Senator Banks mentioned, on Monday, Professor Schindler received the prestigious Gerhard Herzberg Medal. This was not the first of his honours. He is also the recipient of the \$150,000 Stockholm Water Prize, which is the equivalent of a Nobel Prize in that area; and also a Volvo Environment Prize, among many other honours.

It has often been attempted to muzzle the warnings of this scientist and ecologist regarding acid rain. No one has criticized his research on water pollution, but the government often did not want him to speak publicly about grave problems. For example, he spoke publicly on the issue of acid rain during the free trade negotiations, even though the government was worried that it would jeopardize the free trade deal.

His approach to persuade doubters was ingenious. He hung a plastic curtain down the middle of the lake to demonstrate the impact of phosphates on lakes. He used small lakes in Ontario to illustrate how acid rain kills lakes.

After leaving the public service, Professor Schindler went to the University of Alberta where his research continued in similar directions. He studied how DDT and other poisons evaporate from farm soils, drift to the Arctic and stay there because it is too cold for them to evaporate again, thus impacting northern people and wildlife disproportionately.

David Schindler has appeared often on Parliament Hill, before committees and in fora, and his testimony has been invaluable. His research on the lakes and boreal forest of Canada show how the combined assault of overcutting in watersheds and the climate change impacts of mining and oil and gas wells allow UV rays to damage lakes. It was most important in the forestry subcommittee study of the boreal forest at risk, which Senator Taylor chaired.

• (1350)

David Schindler is a national treasure. I know that all honourable senators, as Senator Banks has said, will join in offering him congratulations on a well-deserved reward.

QUESTION PERIOD

FINANCE

COMMENTS BY MINISTER

Hon. David Tkachuk: Honourable senators, there is a long-standing practice that the Minister of Finance does not interfere in the conduct of monetary policy in Canada. However, in 1993, the Liberal Party said that it would, then changed its mind after 1993 and said that monetary policy is the exclusive purview of the Governor of the Bank of Canada.

Yesterday, in response to a reporter's question about the half point cut in the U.S. federal reserve rate, the Minister of Finance said:

...that's obviously going to have an effect on our economy. Obviously, there are measures that we have to take here — the Bank of Canada and the federal government.

The key words are "have to take." Is the Minister of Finance telling the Bank of Canada that it must take further monetary action?

Hon. Sharon Carstairs (Leader of the Government): The answer to that question is very simple. It is contained in the same article in *The Globe and Mail*, from which I assume the honourable senator is quoting, in which a spokesman for Mr. Martin said last night that the minister's comments should not be interpreted as interference: "The bank makes its own independent judgments."

Senator Tkachuk: If the Minister of Finance has to date ruled out any stimulus package, as he has called it — indeed, it may have been in the same article in *The Globe and Mail* in which the Minister of Finance was reported as still rejecting any kind of stimulus package — what did the Minister of Finance mean when he said that the federal government must take or will take measures that "we have to take"?

Senator Carstairs: The Minister of Finance has clearly indicated that he will bring down his budget early in December of this year. That will set forth the government's policy both as to its spending and its programs for the future. That will be the clearest indication to Canadians of what the Minister of Finance has in mind.

INTERNATIONAL TRADE

UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT

Hon. Donald H. Oliver: Honourable senators, my question is to the Leader of the Government in the Senate. It relates to the softwood lumber problem.

In today's *Globe and Mail*, there is an excellent article by Donald Mazankowsky and Clayton Yuetter, who had represented both countries in the past in trade disputes. They came up with a proposed solution about which I should like to ask the minister.

They said in their article that some U.S. lumber producers believe that Canadian softwood lumber is subsidized, therefore giving an unfair advantage to the U.S. market. The specific argument is that Canadian governments have inordinately low stumpage fees for the logging of public lands.

They came up with a solution and wrote:

What we need is for both governments to focus on a creative, flexible, long-term mechanism for resolving these issues in a North American context. We need a market-oriented agreement that fosters competitive pricing throughout the lumber cycle, while also properly protecting forest ecosystems.

What specific steps is the Government of Canada now taking to produce a market-oriented agreement that fosters competitive pricing throughout the lumber cycle?

Hon. Sharon Carstairs (Leader of the Government): The honourable senator has asked an important question about an important industry. That is why it is number one on the agenda of the Honourable Minister Pettigrew, but also very high on the agenda of the Prime Minister, who, just this morning, spoke with the President of the United States about how to resolve this very important conflict between our two nations.

Clearly, it will take working together by each government to ensure that we have an agreement that benefits both nations.

Senator Oliver: What new ideas did the two leaders come up with that the Leader of the Government can relate to the Senate at this time?

Further, I should like to know whether, in these negotiations, the Canadian government is making clear the difference between Crown-owned lands across Canada and privately held lands, which would not have inordinately low stumpage fees.

Senator Carstairs: Honourable senators, I am sure the honourable senator knows I would not be privy to a conversation between the Prime Minister of Canada and the President of the United States. I do not have a direct line to either office, and certainly not one that I can connect to a three-way circuit.

In terms of the honourable senator's question, which was very specific about Crown-owned lands vis-à-vis privately owned lands, that is certainly a dispute among Canadians. Operators within Crown-owned lands would say that they are paying fair stumpage fees. That issue has been under dispute before and has been ruled upon in our favour. We were charging fair stumpage fees, obviously.

One of the reasons Atlantic Canada was excluded from some of the previous arrangements was because the lands are privately owned, and the American government did not see the same problem.

FINANCE

DEVALUATION OF DOLLAR—EFFECT ON ECONOMY

Hon. Leonard J. Gustafson: Honourable senators, my question to the Leader of the Government in the Senate is with regard to the low Canadian dollar.

The Minister of Finance continues to tell us that the fundamentals are right. Is it the opinion of the Leader of the Government in the Senate that the fundamentals are right even when so many things seem to be collapsing around us?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am surprised at the doom-and-gloom forecast coming from the honourable senator. I think the fundamentals are correct. I think Canada is doing very well at holding its own, particularly in relation to those with whom we engage in great trade. I suspect Senator Gustafson is referring

specifically to the agriculture sector. I think he would join with me in hoping that the WTO round beginning later this week in Qatar will be positive in the matter of unfair subsidies.

Senator Gustafson: Honourable senators, for once, I am not referring directly to agriculture. I am referring to Merrill Lynch, one of the world's largest operators in the financial area. The company is talking about selling its 1,000-person network of Canadian brokers. We read again today that we are losing the baseball team out of Montreal, the Expos, because the owners cannot afford to finance them. This is not a question about agriculture, but I will get to it shortly. We also lost our NBA basketball team out of Vancouver, the Grizzlies, because the team was unable to compete financially due to the strong American dollar.

• (1400)

Many commercial enterprises tell us that they are worth much less today — up to 40 per cent of what they were a few years ago. Farmland, according to two farmers I spoke to in Ontario, is also worth about 40 per cent less than it was five years ago. This figure varies. In Saskatchewan, it might well be 50 per cent.

Honourable senators, without a doubt, we have lost a great deal of value and we have lost more equity than what we have gained due to the low Canadian dollar. Does the minister still believe that the fundamentals are right, given the situation that we are facing? Canadians are losing out in this case.

Senator Carstairs: Honourable senators, I wish to thank the Honourable Senator Gustafson for his question. I will no longer think that he is just a one-issue senator. Obviously, the honourable senator has a broader perspective than agriculture.

To answer some of his specific questions, if we lose the baseball team in Montreal — and I think most of us would hope that we would not — we will lose it probably because last year the Expos had their lowest attendance in 25 years. The reality is that if Canadians are not interested in going to baseball games, it is extremely difficult to keep a viable and expensive team going. Honourable senators may not like that information, but that is the truth of it. Professional sports teams require a great deal of public support — not just financial backing — in the form of ticket sales when fans go in and out of arenas and stadiums. If the public is not prepared to participate in great numbers — and, frankly, that also has a lot to do with whether a team is winning or losing — it is hard for those involved in the ownership of these teams to continue to keep them running at a deficit. We have a situation in which Canadians have chosen not to support a team.

Senator Lynch-Staunton: Tell us about the Winnipeg hockey team. Why did you not support it?

Senator Carstairs: You were the one who got into sports teams, senator. You will now have to bear with me for a moment while I address the question.

The reality is that for the first time in many years we will once again have the Rough Riders — perhaps by a different name — in the city of Ottawa.

Some Hon. Senators: Hear, hear!

Senator Carstairs: Clearly, there is an interest in some professional sports.

As to the honourable senator's comments about Merrill Lynch, the company indicated today that it wished to sell its brokerage house in Canada. It is my hope that it will be picked up by a Canadian company that wishes to continue to serve Canadian customers like me.

Senator Gustafson: Honourable senators, I feel that we are at a point where we must face reality. I have two grandsons who never missed a basketball game in Vancouver, and they tell me that the seats were full to the rafters.

Senator Kinsella: It was the same in Winnipeg.

Senator Gustafson: Yes, that is true, but I did not go back that far. We are paying a huge price in the fundamentals of what we, as Canadians, own and what our assets are worth today.

I will give honourable senators an example in the area of agriculture. My neighbour sold his farm on the U.S. border for \$55,000 a quarter section. He had five quarter sections. Across the line in Ambrose, North Dakota, that land is selling for U.S. \$100,000. That means that he got approximately U.S. \$32,000 for a quarter section of comparable, if not better, land. That is right on the 49th parallel. When that happens, something is seriously wrong. I am told that the same thing is happening in commercial enterprises and commercial real estate — probably not to the high percentage that it is happening in agriculture, but it will have an impact. If the only way to remedy the problem is to return to the days of a 17 per cent interest rate, then we are in big trouble.

Senator Carstairs: Honourable senators, with the greatest respect, that is exactly why the government will not do what the honourable senator seemed to be urging in one of his questions, namely, prop up the Canadian dollar. Such action would lead to higher interest rates. That is not the way to go.

If the honourable senator is talking about the value of property vis-à-vis the United States and Canada, there have always been differentials. One of the major factors in that differential right now, as the honourable senator well knows, is the subsidies that are paid to agriculture south of the border that are not paid to agriculture north of the border. That is one of the reasons we hope the WTO discussions this week go well with respect to reducing some of those subsidies.

The bottom line is that Canadians, according to the Gallup Poll, support this government to the tune of 62 per cent. While the honourable senator may not think the fundamentals are right

and may not think the government is getting it right, the Canadian people seem to think that it is.

Senator Gustafson: Honourable senators, I was just handed a news release by our leader stating that the chairman of the U.S. Senate Committee on Agriculture today introduced a new farm bill that retains most of the current subsidy system and offers new conservation programs for farmers.

Honourable senators, we have been losing that battle for a long time. For 20 years, I have been hearing that all would be fine if we could just get the Americans and the Europeans off of their subsidies. Does the Leader of the Government in the Senate believe that will happen?

Senator Kinsella: That is the question!

Senator Carstairs: That, indeed, is a question, honourable senators. We can engage in certain international vehicles in an attempt to level the playing field not only between Canada and the United States, but between Canada and Europe and, in the broader perspective, between Canada and the world.

We are a small country in comparison to the country south of the border. I think that the opposition will recognize that we will never be able to pay the kind of subsidies that the Americans pay. Therefore, we must do our best to work a deal that will impact in a favourable way upon Canadian farmers.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I always find interesting the lessons of economics that flow from this discussion. It seems to me that what the Leader of the Government is arguing is that when I go to buy my citrus fruit in the grocery store this winter, yes, I will be paying more, but that is okay because the lower Canadian dollar means that we will have greater exports. If that is the principle under which the government is operating, why not lower the dollar to zero? Just think of the increase in exports we could then have. Is this the government's policy?

Senator Carstairs: Honourable senators, I have been careful to say that there is a balance. When our exports are trading easily and quickly because of their price, there is a negative impact on our imports. I have never denied that. There is a negative impact on our imports. The point is that Canada is primarily an exporting country. Therefore, it is to our advantage to be this way. Is it all right? Clearly, the Minister of Finance has indicated that he wishes to see the dollar at a better value. However, that is not his determination to make alone. It is a determination based on the floating market and international markets.

INFLUENCE OF CURRENCY IN NORTH AMERICAN FREE TRADE AREA

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I was convinced by the honourable minister's colleague, the chairman of our Rules Committee, who argued that we should support the free trade agreement with Costa Rica. That change of heart warmed my heart.

• (1410)

However, my question to the Leader of the Government in the Senate is simply this: Now that the Liberal government greatly embraces free trade and has great affection for free trade, and given the tremendous success of the North American Free Trade Agreement with the United States and Mexico and that our exports are way up, has the government analyzed the situation vis-à-vis Canada and the effect of its currency in this free trade marketplace, which is not the currency of the marketplace? Has the government analyzed the relationship between this free market area and our different fiscal policy?

Hon. Sharon Carstairs (Leader of the Government): Let me begin by saying that I do not think that the Liberals were ever opposed to free trade. Were Liberals opposed to certain agreements? Yes. I was a provincial politician at the time. I remember giving speeches in the Province of Manitoba, and I focused my speeches on the dispute settlement mechanism. I talked about it over and over again, saying that the dispute settlement mechanism would not work. Well, hallelujah! Unfortunately, I was right. I do not like being right about some things, but I was right about that one. The dispute settlement mechanism is just not working, and that is unfortunate.

As to the honourable senator's question about whether we need to have shared fiscal policies and shared currencies, I certainly hope not. As far as I am concerned, Canada is a sovereign country, and we make laws in Canada on fiscal policy for Canadians.

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS— IN-SERVICE SUPPORT COSTS OF NEW AIRCRAFT

Hon. J. Michael Forrestall: Does the leader think she could summon up one quarter of that enthusiasm for one more helicopter question?

Hon. Sharon Carstairs (Leader of the Government): Absolutely!

Senator Forrestall: Honourable senators, I indicated yesterday that I have in my possession documents that clearly demonstrate that the government split the in-service support costs out of the current helicopter project because it would present a communications challenge to comparisons between the new ship-borne aircraft and the current Liberal government's Maritime Helicopter Project. Why was the government so concerned about the in-service support costs for the 28 maritime helicopters? Why this sudden concern?

Senator Carstairs: Honourable senators, part of that concern is that of all the aircraft we have, the ones that are most expensive and take the greatest number of man-hours are the helicopters, and not just the Sea Kings. Helicopters as a form of

flying vehicle require a great deal of maintenance, so in-service support costs are clearly of a great deal of importance.

Honourable senators, the honourable senator asked me for some enthusiasm, so let me give you some enthusiasm on this issue. I have been waiting to share this information with Senator Forrestall and other members of this chamber for some time. I often watch the Commander in Chief of the United States, the President, on television. He often comes from Camp David and lands on the White House lawn in a helicopter. Can you tell me the name of the helicopter, honourable senators? A Sea King! I would suggest, honourable senators, that Sea Kings are still viable and functioning well in both Canada and the United States.

Senator Forrestall: Honourable senators, I must ask: How old was that Sea King? How old would they permit it to get, and how many cycles are on it? Then I would like answers to the same questions about our Sea Kings. Once all the information is compared, I am sure the leader would not take such great delight and glee at the expense of the men and women who have to fly the Sea King. The comparison is odious. It is offensive to the members of the Canadian Armed Forces who fly Sea King helicopters. It is offensive. If she does not think so, I suggest she ask some of them.

Clearly the Liberal project will not be cheaper. We know that. We have been told that. The in-service support for the new maritime helicopter is estimated at \$75 million to \$125 million a year. The life of the program is 20 to 25 years. That is a reasonable lifetime for this type of equipment. What does that cost? What does that add up to? It is somewhere around \$1.7 or \$1.8 billion. Why is this figure not included in the cost estimates for the program?

Senator Carstairs: Honourable senators, the figures you have been given are the figures that the government will stand by, that is, the savings will be between \$1 and \$1.5 billion on this project.

In order to keep honourable senators informed, there is great defence of the Sea Kings by family members, although we have constantly heard the opposite in this chamber. I suggest that the honourable senator take a look at the *Times Colonist* of November 4, 2001, in which the headline is "Families Come to Defence of Controversial Helicopter." They go on to say how safe they believe this plane is and that they have no fears whatsoever about their families flying in this vehicle.

Senator Forrestall: If you believe that, you believe in the tooth fairy.

Senator Bryden: You will just have to fearmonger a little more.

Senator Forrestall: I keep being told, senator, that the savings to the Canadian public will be somewhere in the \$1.5 billion range.

Senator Bryden: Keep telling them they are unsafe and they will start to believe you.

Senator Forrestall: Add in the in-service costs, and it could go as high as \$3.1 billion. It certainly would exceed \$1.8 billion. Where does the government get this \$1.5 billion in savings? Where does that money come from? Use a calculator. The numbers simply do not add up.

Senator Carstairs: Honourable senators, the numbers do add up. They were presented to our committee. The final figure was \$1.37 billion, and that is why I said between \$1 and \$1.5 billion. Clearly, the honourable senator does not agree with those figures. Quite frankly, those are the figures that have been presented to us. They have been tallied and calculated. A calculator has been used to add them all up. I see no reason for disputing those figures in any way.

PRIME MINISTER'S OFFICE

PROCLAMATION OF WAR ON TERRORISM

Hon. J. Michael Forrestall: Honourable senators, let me ask one final question on this area. I had asked some time ago whether or not Canada had proclaimed itself to be at war with any other nation. We talk about a war on pollution, a war on poverty, a war on many things, and now we have a war on terrorism. How do you declare war on terrorism? Accepting that as a difficult bridge to cross, but recognizing that Canadian forces personnel are now in what could only be described as a war zone, and I do mean a war zone, why have we not authorized or brought forward the required Order in Council that would give to the Canadian Forces personnel involved those extended benefits that add a little bit of protection and describe to them and to their families a degree of faith and appreciation because of the added danger that we have placed them in?

• (1420)

Why have we not done that? Why are we denying these people that added comfort?

Senator Carstairs: Honourable senators, with the greatest respect — and it is a most serious question and one that we must deal with in the appropriate way — this is a very different war from any that Canada has ever participated in before. It is not the traditional form of war for which we have exercised certain extension of benefits in the past. I will certainly seek further information, but I do not believe that Canadians are at risk at present, although they are certainly in an area that in broad terms could be described as a war zone. However, they are primarily supporting the ships of the United States that are, in fact, actively engaged in the war against the terrorists.

[Translation]

DELAYED ANSWER TO AN ORAL QUESTION

The Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have a response to a question raised by Senator Kinsella on October 31, 2001, regarding security and intelligence.

SECURITY AND INTELLIGENCE

LIST OF TERRORISTS AND TERRORIST GROUPS

(Response to question raised by Hon. Noël A. Kinsella on October 31, 2001)

According to public statements made by the Director of CSIS, the Service's Counter-Terrorism Branch is investigating over 50 organizations in Canada, encompassing over 350 individuals, with links to terrorist activity.

In this regard, the CSIS web site lists the Provisional Irish Republican Army (PIRA) as an example of a terrorist organization that is active in Canada.

That being said, it is important to highlight the difference between individuals or groups under investigation by CSIS or the RCMP, and a proposed "List of Terrorists", as per Bill C-36.

Under Bill C-36, the Government is contemplating the establishment of a "List of Terrorists".

However, until the Bill becomes law and the list is established, I will not speculate on which entities may be included on such a list.

[English]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I should like to introduce some visiting pages to members of the Senate. We have, from the House of Commons, Jennifer Blood of Victoria, British Columbia. She is enrolled in the Faculty of Administration at Carleton University. She is majoring in International Business.

Welcome, Jennifer.

[Translation]

Suzie Léveillé is studying communications at the Faculty of Arts at the University of Ottawa. She comes from Haileybury, in Ontario.

Welcome, Suzie.

[English]

The Hon. the Speaker: Finally, we have Nichola Payne of London, Ontario, who is enrolled in the University of Ottawa's Faculty of Social Sciences. She is majoring in Political Science.

Welcome to you all.

Hon. Senators: Hear, hear!

JUSTICE

CHARTER OF RIGHTS AND FREEDOMS FOR CHILDREN—WITHDRAWAL OF OFFENDING LANGUAGE

The Hon. the Speaker: Honourable senators, Senator LaPierre has a point of order.

Hon. Laurier L. LaPierre: Honourable senators, I wish to speak in regard to my statement yesterday on the crime of Ms Vandenelsen of Stratford, Ontario, for which she was acquitted. It has been pointed out to me, and your body language at the time certainly demonstrated it, that I may have placed justice in disrepute and that I may have caused some harm to the reputation of this honourable house. I did not want to do that, and I thought I had made that quite clear. However, I see now that referring to Ms Vandenelsen as a criminal two times, and adding that she ought to be in jail, may have served my sense of hyperbole but may have caused something other than I wished. Consequently, I should like to apologize to honourable senators and, if possible, I would ask that the offending words be removed.

What I wanted to achieve, however, I do not apologize for. I wanted to make myself the spokesman of the plight, the pain and the fear of these children involved — a pain, a fear and a plight that will be with them for a long time to come, especially when they realize that it has been caused by their mother. Furthermore, I want to affirm to myself, perhaps more than to anyone else, that in the defence of children enormous risks must be taken and I certainly intend to continue to do so.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I wish to know if His Honour is recognizing that statement as a point of order, and if so, what is the point of order?

The Hon. the Speaker: Honourable senators, Senator LaPierre has sought an opportunity to rise in this chamber and request leave to strike words from a statement that he made yesterday under Senators' Statements. I was rising at this time to ask whether or not leave would be granted for him to do that.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, a point of order was raised.

Senator LaPierre: I do not wish to cause any trouble.

Senator Lynch-Staunton: You are.

Senator Kinsella: In my opinion, no prima facie case has been made that this is a point of order. Therefore, I think the Chair should find there is no point of order. If the honourable senator wishes to make a statement or a declaration, or has something to correct or to withdraw, that is another matter. However, we must protect the integrity of the process of raising points of order. As well, the rules are clear on the role of the

Speaker. The first step must be the determination by the Speaker of a prima facie case. There is none.

Hon. Anne C. Cools: Honourable senators, as I understood it, Senator LaPierre was asking to withdraw his offending or distressing language, which is quite a different matter from deleting or striking words from the record. It seems to me that if Senator LaPierre expresses an apology and regret about using some tough and harsh language, the chamber should accept that with grace and magnanimity. However, it is a withdrawal, rather than a deletion or a purging of the record. I do not think purging of the record is a desirable characteristic for this Parliament or any other Parliament. I will be quite happy to agree to what Senator LaPierre asked for, which was for withdrawal, but the record will stay intact.

Senator LaPierre: Honourable senators, I am sorry to cause so much trouble two days in a row. I am trying to do the best that I can. I have this tendency that when I do something that seems to be wrong, I apologize. Therefore, I did apologize. If it is acceptable, that is sufficient for me. As for the rest of it, you can do whatever you like.

Senator Lynch-Staunton: That may be a very clever remark, but we are not in a television studio here, we are in the Parliament of Canada. Some very offensive remarks were made yesterday against the judicial system of this country. We let it go then because we hoped that the next day would bring some reflection and a complete withdrawal of those remarks.

Senator Taylor: What do you expect him to do, pound his head on the floor?

The Hon. the Speaker: Honourable senators, I want one senator standing at a time. Senator Lynch-Staunton has the floor.

Senator Lynch-Staunton: All we got was a point of order. I am asking what is the point of order?

Senator Cools: Honourable senators, I suggest that the matter go no farther than it has. The fact of the matter is that Senator LaPierre rose and expressed regret at the particular words that were used. I am of the opinion that the chamber is quite prepared to accept that, which was the intention of Senator LaPierre. With that, I think we should just let the matter drop.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, clearly, as a relatively new senator, Senator LaPierre is not familiar with all of our rules. It seems to me that the appropriate time for him to have made his statement this afternoon would have been during Senators' Statements. It was a statement that he was making. Perhaps what we could do, if honourable senators are agreeable, is to allow the statement that he made today to appear in Senators' Statements. It is certainly not a point of order.

The Hon. the Speaker: Do any other senators wish to comment on this matter?

Honourable senators, there is some anxiety as to my even listening to comments on this matter. The rules provide that the Speaker shall decide whether or not a point of order has been raised. It is entirely within the Speaker's discretion to hear comment that a point of order has not been raised or that a point of order has been raised and, having heard everyone, to make a decision. That is the process we will go through now for those of you who may be wondering why I am listening when there is at least some opinion that there is no point of order. I will hear senators until I have heard enough to make a decision and then I will give my decision to the best of my ability.

• (1430)

Hon. Marcel Prud'homme: Your Honour, you are a wise speaker. I was about to suggest what you have just said. Please rule and we will be more than happy to abide by that ruling. What was said yesterday was said; what is said today is said. It is on record. Let it stand, and I do not see why we should prolong this discussion.

Senator Cools: I have already said that Senator LaPierre has been magnanimous and generous. His language was overzealous and particularly strong, but this is not a point of order and should not be dealt with as such. The fact is that the honourable senator has already apologized. In the interests of fairness and justice, we should let the matter rest.

Hon. Jim Tunney: Honourable senators, I was here yesterday and I heard this relatively new senator's statement. I would not have made it. I was somewhat uncomfortable hearing it. However, in another life I can remember when the honourable senator made other statements in an equally public forum that I did not always agree with, either. I heard the honourable senator's intervention today.

I hope we have more serious business to deal with in this chamber. I would like us to accept the senator's explanation or expression of regret for what he means it to be and to proceed with our business.

The Hon. the Speaker: Honourable senators, I have heard the comments and I shall proceed to deal with this matter.

The issue raised by Senator LaPierre, which he is raising at the appropriate time, has been questioned as to whether it is a valid point of order. If I heard correctly, Senate LaPierre is now claiming that it is not a point of order. Accordingly, I will agree with those who say that this is not a point of order.

Senator LaPierre has asked for leave to withdraw certain remarks that he made under Senators' Statements yesterday. That cannot be done, Senator LaPierre, without unanimous leave of this place. Your comments, rightly or wrongly as a point of order, have been made and are a matter of record. Withdrawing them will require the unanimous consent of this house.

Honourable senators, is unanimous consent granted?

Hon. Senators: Agreed.

ORDERS OF THE DAY

CANADA-COSTA RICA FREE TRADE AGREEMENT IMPLEMENTATION BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Ferretti Barth, for the second reading of Bill C-32, to implement the Free Trade Agreement between the Government of Canada and the Government of the Republic of Costa Rica.

Hon. James F. Kelleher: Honourable senators, it is with great pleasure that I rise today to speak to the second reading of Bill C-32, to implement the Free Trade Agreement between the Government of Canada and the Government of the Republic of Costa Rica.

As the former Minister for International Trade at the time Canada was negotiating its first trade agreement with the United States, I am delighted to see that the bold vision so courageously adopted by the Progressive Conservative government under the Right Honourable Brian Mulroney continues to be pursued by this Liberal government.

Some Hon. Senators: Hear, hear!

Senator Kelleher: That has not always been the case. Prime Minister Chrétien told us in 1988 that the Free Trade Agreement was not good for Canada and that we paid too much for too little. Even the current finance minister was opposed to the FTA. We were told that the FTA was a total win for the Americans and a total loss for Canada and that they took us to the cleaners. According to Chrétien, Martin and their colleagues, the sky was to fall under the FTA and its successor agreement, the North American Free Trade Agreement, or NAFTA. We all know that this did not happen.

What has happened is that our exports to the United States have tripled since we signed the original agreement. In 1988, the value of Canadian exports to the U.S. was approximately \$100 billion annually. Today we export over \$300 billion in goods and services to the United States each year.

The value of our annual exports to Costa Rica is only \$86 million at present, a relatively small amount. That figure will be much more attractive if we triple it in 10 years, as we did with the United States. Imagine the possibilities if we enter into a Free Trade Agreement with all 34 countries of the Americas.

Free trade is not just good for us. As Senator Austin so eloquently stated yesterday, free trade can be one of the important tools used by developing countries to rise out of their economic depths and take their rightful place in world markets.

In his speech yesterday, Senator Austin reviewed in some detail the different aspects of this bill. I do not intend to repeat those today. I understand that there is some concern by Canada's sugar industry about this agreement. We will want to hear from that sector when this bill is referred to committee. We will also want to know which industries are included or excluded, and why, and we will want to learn about the pace of tariff reductions to ensure that it is fair for Canadian industries. Finally, we will wish to ensure that there is an adequate dispute resolution system in place.

Honourable senators, the Progressive Conservative Party supports the principle of this bill. We should commend the Liberals for adopting now what they so wholeheartedly rejected a few years ago. They have seen the error of their ways and the wisdom of ours. We know that it is difficult to admit that you were wrong and apologize for it. Imagine how painful it must have been for poor Brian Tobin to grovel at the feet of former Prime Minister Mulroney earlier this year in Europe, seeking Mr. Mulroney's forgiveness and admitting that the vehement Liberal opposition to free trade had in the end been nothing more than hot air. Honourable senators, we look forward to seeing this bill in committee.

The Hon. the Speaker: Honourable senators, if Senator Austin speaks now, his speech will close the debate on the motion for second reading of this bill.

Hon. Jack Austin: Honourable senators, I thank Senator Kelleher for his contribution today to the analysis and judgment of the merits of this particular legislation.

I was the sponsor of the North American Free Trade Agreement in this chamber when Mr. Chrétien's government adopted the agreement in its final form. My party has always been the party of free trade.

Some Hon. Senators: Oh, oh!

Senator Austin: I wish to remind Senator Kelleher, that former Prime Minister Mulroney, when he announced his objectives for his free trade negotiation, in 1985, said that it would remove the United States' use of duty and countervail, something that did not happen. He said that the agreement would remove the procurement priorities and preferences of the United States, something that did not happen.

There were valid reasons to be concerned about the NAFTA agreement. The Chrétien government was deprived, when it came into office, of the opportunity and flexibility to make changes.

Once the Mulroney government had agreed with the United States on certain questions and had provided negotiating

opportunities on other questions, we were stuck. We have to live with the bargain.

• (1440)

Honourable senators, I did not introduce yesterday any questions of politics in Bill C-32. I feel that I am provoked by my friend Senator Kelleher to put the record straight this afternoon.

Having said that, I look forward to a careful examination of Bill C-32.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE.

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Austin, bill referred to Standing Senate Committee on Foreign Affairs.

CONSTITUTION AMENDMENT, 2001, NEWFOUNDLAND AND LABRADOR

MOTION—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Milne:

WHEREAS section 43 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

NOW THEREFORE the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto.

SCHEDULE AMENDMENT TO THE CONSTITUTION OF CANADA

1. The Terms of Union of Newfoundland with Canada set out in the Schedule to the *Newfoundland Act* are amended by striking out the words "Province of Newfoundland" wherever they occur and substituting the words "Province of Newfoundland and Labrador".

2. Paragraph (g) of Term 33 of the Schedule to the Act is amended by striking out the word "Newfoundland" and substituting the words "the Province of Newfoundland and Labrador".

3. Term 38 of the Schedule to the Act is amended by striking out the words "Newfoundland veterans" wherever they occur and substituting the words "Newfoundland and Labrador veterans".

4. Term 42 of the Schedule to the Act is amended by striking out the words "Newfoundland merchant seamen" and "Newfoundland merchant seaman" wherever they occur and substituting the words "Newfoundland and Labrador merchant seamen" and "Newfoundland and Labrador merchant seaman", respectively.

5. Subsection (2) of Term 46 of the Schedule to the Act is amended by adding immediately after the word "Newfoundland" where it first occurs the words "and Labrador".

Citation 6. This Amendment may be cited as the *Constitution Amendment, [year of proclamation] (Newfoundland and Labrador)*.

Hon. Ethel Cochrane: Honourable senators, when the House of Commons approved the constitutional amendment to change the name of Newfoundland to Newfoundland and Labrador, it was simply recognizing the name the people of the province had been using for many decades. In the minds of the province's citizens, Premier Roger Grimes among them, the change is simply entrenching within the Constitution, the name Newfoundlanders and Labradoreans have been using in the province for the past 40 years.

In April 1999, the province's House of Assembly approved and unanimously adopted the resolution to officially change the name to the Province of Newfoundland and Labrador. Then, as now, changing the name was considered an important acknowledgement of Labrador's contribution to the larger province. It is recognition of her distinct history, her geography, her culture and her people. According to Provincial Opposition Leader Danny Williams, the name change recognizes that the province is two large land masses, connected in a historic partnership. He said, "The affirmation of Labrador in the province's name is symbolic of our affirmation of Labrador as an integral part of our province."

The name change was designed to include and officially recognize Labrador as an equal partner. Quite simply, it has been an issue of respect. It is about respecting the role of Labrador and her people to our province. It is highlighting her contributions through such resources as the north and south coast fisheries, vast mineral extracts, the world renowned Churchill Falls Hydroelectric Plant and most recently, but just as important, the Voisey's Bay nickel deposits.

Honourable senators, the new name also helps to raise Labrador's profile outside the province. In fact, we have already witnessed evidence of this, at least on some level. Last week, for example, we read headlines in newspapers across the country that heralded the new name. There were headlines such as "Labrador Earns Some Recognition"; "Labrador Gets Equal Billing"; "Name Change Reflects Importance of Labrador"; and "Labrador

Recognized as Equal Partner." The name change and the media coverage it has received also go a long way to help teach Canadians about the province and, more specifically, about Labrador.

We are not a small province. Our land covers over 405,000 square kilometres. That is more than three times the total area of Nova Scotia, New Brunswick and P.E.I. Our offshore area extends more than 1,825,000 square kilometres. Our resident population is currently listed at almost 600,000.

Despite the progress signalled by the name change, that alone will not cancel out the history of the inequity Labrador and Labradoreans have suffered by all levels of government. Randy Collins, the member of the House of Assembly for Labrador West, said, "It is only when the services and opportunities Labradoreans have are brought to a level comparable to other regions, that this part of the province will be able to connect with the rest of the country and triumph over alienation."

The name is a positive step but one that must be more than just symbolic. While the name reinforces in people's minds that there are two distinct parts to the province, the fact remains that the region needs a stronger commitment from government. It needs a commitment to improve transportation, by establishing a highway system on a par with other Canadian communities; a commitment to education, by improving its ability to attract and retain teachers to local communities; and a commitment to health care, by investing in the region's medical service.

Hon. Bill Rompkey: Honourable senators, names are important. They describe us and define us both for ourselves and for others. So it is with persons; so it is with countries; and so it is with provinces. Names signify identity and a name is a symbol of who and what we are.

That is why this change in the name of our province is important. For the province, as Senator Cochrane has rightly said, consists of not just two land masses, but of two separate identities. The Island of Newfoundland, after the arrival of the Europeans, was described as a great ship moored in the middle of the Atlantic to be used for British fishing interests.

On the other hand, while there was some fishing latterly on the Labrador Coast, the interior was really part of the Hudson's Bay fur trading empire. In the early years after the arrival of the Europeans then, it is fair to say that, while Newfoundland was for fishing, Labrador was for furring. Labrador is really subarctic — part of the near North.

The origin of the Aborigines in the region, as well as those of European descent, is different. The most southerly Inuit in Canada live in Labrador. The origin of the Innu is not the same as that of the Beothuks or Mi'kmaq. The European settlers who first came to Labrador with the fur traders came primarily from Scotland and the Orkney Islands, not from the West Country of Britain or Ireland; and not from Poole, Devon or Waterford. While latterly many from the Island of Newfoundland moved to Labrador, so too did people from Quebec, from other parts of Canada and from other parts of the world.

Once natural resources were discovered in Labrador in the late 19th century, both Quebec and Labrador claimed patrimony. After a timber licence sent the matter of jurisdiction to the Privy Council of Great Britain, that body ruled in favour of Newfoundland, and the boundary between Labrador and Quebec was established as the height of land. That boundary remained intact when the province joined Canada with Labrador as part of its territory.

• (1450)

I remind honourable senators that we were not part of Canada before 1949. We had a convention to decide what we would do, and we very magnanimously decided to join Canada. Canada has been all the richer for that, as Senator Finnerty knows well.

That national convention and provincial election in 1949 was the first time that Labradoreans voted. The Island of Newfoundland had had the vote for almost 100 years. Labradoreans were voting for the first time. Although people's names were on the voter's list, the name of the territory where they lived, and had been living for some time, was not reflected in the name of the province.

As they saw it, they were an afterthought because the name of the island and the name of the province were one and the same. Therein, honourable senators, lay the primary cause of what Labradoreans saw as the rejection of their identity. The island was Newfoundland. The name of the province, as recorded in the Terms of Union, was Newfoundland.

The island and the province were one and the same. There was no room in the province's name, as Senator Cochrane has adequately described, to reflect the largest landmass not only in our province, but also in Eastern Canada.

Folksy references to "the Rock" only helped to reinforce the feelings of Labradoreans that they were not really part of the province. After all, they did not live on the Rock; they lived on the Ungava Peninsula.

This feeling persisted. I remember going to a convention of the Liberal Party where the president got up and, without malice but thoughtlessly, welcomed people from all across the island. We had to shout that we were from Labrador, too.

The situation was not helped by the fact that an island struggling to survive, and with its own very strong identity, too often saw Labrador as the great storehouse of natural resources to be exploited. Newfoundland had needs; but Labradoreans had needs, too, and rights. Just as in the 19th century they had seen fish caught off their shores slip back to the island, Labradoreans saw their iron ore and waterpower extracted and sold for the benefit of someone else. A political gap widened that was greater than the geographic one that existed at the Strait of Belle Isle.

Honourable senators, changes came in the latter part of the 20th century, as Senator Cochrane has again adequately documented. The government at that time made changes to the name of the government. In 1969, Premier Smallwood changed the name of the government to that of Newfoundland and Labrador. That name appeared on letterheads and licence plates. The island began more and more to acknowledge Labrador, to recognize it was an integral part of the province and to respond to its needs. Indeed, during recent years, all across the country, more and more, people have come to refer to us as Newfoundland and Labrador.

Premier Brian Tobin took the final step of recognizing that if there were not two nations warring in the bosom of a single state, at least there were two strong identities destined to survive. He ensured that they would survive, side by side, by initiating the measure that we have before us today. We have before us the change in the name of the province in the Constitution of Canada to Newfoundland and Labrador.

It is fitting that Brian Tobin take some credit for this for he was the first premier who had grown up in Labrador. Born on the island, he was a high school student in Goose Bay when I was superintendent of education. He understood the question of identity. He knew the facts of history. He realized the place of Labrador in the province, and he did something about it. He is to be congratulated, as is Roger Grimes for following through on this measure and Danny Williams, the Leader of the Opposition, for supporting it.

Honourable senators, before us today is simply, as Senator Cochrane has said, the recognition of a reality. There are two parts to the province. They are separated geographically with different historical developments, needs and possibilities. They are both parts of one province, and we are recognizing that reality in the name. It is an honour for me to support this measure with great enthusiasm, and I urge all senators to do the same.

Hon. Leonard J. Gustafson: Honourable senators, I should like to ask a question of the Honourable Senator Rompkey.

The Hon. the Speaker: Will the Honourable Senator Rompkey accept a question?

Senator Rompkey: I shall, honourable senators.

Senator Gustafson: Honourable senators, the fair province of Senator Rompkey's home is the recipient of the Hibernia oil development. In the honourable senator's opinion, what impact will that development have? How will it relate to current equalization payments? What is the future of that situation?

Senator Rompkey: Honourable senators, I see Senator Doody chuckling. I am sure that he can answer the question as well as I can. Perhaps the answer will be the same.

There will be oil revenues, but they will not come yet. The royalties will not begin to flow for another three or four years. Even when they do, we will not see the benefit of them as Alberta has, for example. The territory that Senator Cochrane described in her speech was disputed and it was eventually decided that it would be controlled by both the federal and the provincial governments. The major part of the government revenues from the oil will flow to the federal government, and a minor share of the government revenues from oil will flow to our province. That is a fact of history and the politics that we find ourselves in at the moment.

I might say that the same thing will be true, unfortunately, when we build, hopefully, a nickel mine in Labrador. Again, most of the government revenues from that mine will flow to the Government of Canada and not to the Government of Newfoundland.

Not only do we need to revisit the whole question of equalization, we also need to revisit the whole question of how resource revenues are shared. I am glad that the Standing Senate Committee on National Finance is presently examining the whole question of equalization.

We need to examine other policies as well. We need to revisit the offshore revenue accords of both Nova Scotia and Newfoundland to ensure that the policies that were enunciated at the time that they were signed are being observed. At the time of the signing of the accords, the policy enunciated was that most of the revenues would flow to the provinces, but that is not the way it is working at the moment. We need to revisit both equalization and the offshore accords to ensure that the provinces in Atlantic Canada are getting maximum benefit.

Senator Gustafson: The royalties are one part of the scenario. How do the oil companies fit into the picture? There are about 600,000 people in the province? How do the oil companies recover their investment? It is on a percentage basis, is it not?

Senator Rompkey: Honourable senators, there are two accords, one with Nova Scotia and another with Newfoundland. Senator Doody was Minister of Finance for Newfoundland at the time, and he could probably answer that question better than I can.

The oil companies get their revenue in the same way as any other private sector company. That is the general answer to the question. However, they had to do it within the accord. There is an accord with Newfoundland, and one with Nova Scotia. They recoup their money in the same way as all other companies do except that they have to operate within the limitations of the accord.

I should also say that without the help and support of the Government of Canada at that time, we would not have the oil developments. The late John Crosbie, who was in cabinet at the time, played a major role in securing our offshore accord.

Senator Gustafson: The spinoff benefit in terms of jobs and so forth must be quite significant. Is that fair to say?

• (1500)

Senator Rompkey: It is. We have been able to develop companies and people who have skills in the offshore. That has happened from the time of the Ocean Ranger. Most of the people who sank in that disaster back in the 1980s — I believe it was in 1983 — were from our province. It was a terrible tragedy for us at that time.

I think it is fair to say that from the 1980s onward, we have produced people who work on those rigs and on shore as well. We have developed companies that support both the onshore construction and the offshore effort and the aircraft —

The Hon. the Speaker: I am sorry to interrupt, but the 15-minute time period has expired. Is the honourable senator requesting leave for additional time?

It would be for Senator Rompkey to request leave or not.

Senator Rompkey: Yes.

When I first rose, they would not let me speak, and now they do not want me to sit down. I wish they would make up their minds.

The Hon. the Speaker: Senator Rompkey has requested leave to extend his time. Is leave granted, honourable senators?

Hon. Senators: Agreed.

Hon. Gérard-A. Beaudoin: When we use the word "Labrador," was the whole of Labrador included in the decision of the Judicial Committee of the Privy Council in 1927? In other words, if it is the whole territory that was referred to in the decision of the Judicial Committee of the Privy Council, this is a question of boundary.

The decision is accepted by the experts. There is no doubt in my mind about that. A book has been written on this matter and the question, legally speaking, is settled.

When the word "Labrador" is referred to, does the word refer to the boundary declared in 1927?

Senator Rompkey: The simple answer is yes. It is the territory that was established in 1927. Labrador was really not defined before 1927. It was a name on a map, but no one actually defined what that area included. It was only defined in the decision of the Privy Council in 1927. The boundary established at that time was at the height of land; in other words, where the rivers began to flow to the Atlantic Ocean. That is what the Privy Council accepted as a definition of "the coast." The coast was the area from the height of land where the rivers began to flow, to the Atlantic Ocean. That was accepted by the Privy Council and established in 1927. When we joined Canada in 1949, that was the boundary with which we came to Canada.

Senator Beaudoin: If that is the case, I should like to move that the debate be adjourned in my name because I wish to make a speech on this topic.

Hon. Roch Bolduc: I have a question for the honourable senator. I wonder whether we are expecting another motion like this for Nova Scotia and Cape Breton?

The Hon. the Speaker: The Honourable Senator Rompkey does not wish to answer.

On motion of Senator Beaudoin, debate adjourned.

ANTI-TERRORISM BILL

REPORT OF SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-36—DEBATE ADJOURNED

The Senate proceeded to consideration of the first report of the Special Committee of the Senate on the Subject-Matter of Bill C-36, to amend the Criminal Code, the Official Secrets Act, the Canada Evidence Act, the Proceeds of Crime (Money Laundering) Act and other Acts, and to enact measures respecting the registration of charities in order to combat terrorism, tabled in the Senate on November 1, 2001.

Hon. Joyce Fairbairn: Honourable senators, I rise today to begin debate on the first report of the Special Senate Committee on the Subject-Matter of Bill C-36, the anti-terrorism bill, which I tabled in the chamber last Thursday.

This report is the result of a pre-study of the bill. The Senate was requested to undertake this study by the government. We were asked to offer our comments and our recommendations on an important piece of legislation that was prepared in the aftermath of the horrific events of last September 11, when thousands of innocent people were murdered as terrorists forced commercial air flights to crash into the World Trade Center in New York, at the Pentagon in Washington, D.C., and in a field in Pennsylvania.

There were no survivors among the passengers, and an estimated 5,000 or more people died on the ground. So violent was the impact that few remains were recovered, and even though brave rescue teams continue to search and families retain a faint hope that something to remember will still be found, the fear and the sadness is there.

Terrorism is certainly not a new phenomenon in our world. It is as old as history itself. Nor is it new to Canadians. We will never forget the 1985 bombing of the Air India flight 182 and the death of its 329 passengers.

We remember the FLQ crisis of 1970 when British diplomat James Cross was held hostage in Montreal, and Quebec Labour Minister Pierre Laporte was kidnapped and brutally murdered right here in Canada.

However, what was new to us eight short weeks ago was that international terrorism was targeted directly at the soil and symbols of North America. We were stunned to see before our

eyes not just Americans but Canadians and citizens from some 80 lands simply disappear without a chance, without a hope. In those moments we were helpless in the grip of an enemy we could neither see nor comprehend, with a battlefield that had no boundaries in a world of high technology.

September 11, 2001, has indeed changed our lives. It was not just an attack on our neighbour; it was an attack on us and free people in democracies everywhere. Terrorists exploited vulnerabilities that exist because of the freedoms that define us as citizens and that we tend to take for granted.

We have maintained a level of security felt to be sufficient within our own nation in peacetime, but with the reduction of the tensions of the Cold War, we have not felt an urgent need to buttress ourselves against the unexpected strikes from hidden sources whose strength is hatred and a fanaticism that ultimately nullifies their own passion for survival.

Well, honourable senators, that time has come. There is urgency to respond. The government has proposed Bill C-36 with the elements of that response.

As Minister of Justice Anne McLellan said when she last appeared before our committee:

This bill is about what we need to do to protect our most basic human right — the right to live our lives in peace and security. If we do not protect this right, then the rights to freedom of expression, association and all the other rights guaranteed by the Charter are at risk.

This is not a question of “either-or.” It is a question of finding the right balance. The government has worked hard on this bill. Care has been taken to provide safeguards for Canadians. The government wants to get it right and has asked for our views. Our report has been sent to the House of Commons and its Committee on Justice and Human Rights, which is now studying this bill. The bill will come back to us for study, debate and clause-by-clause consideration.

• (1510)

I will not stand here today and pretend that our proposed changes are the only ones, or the best, or the magic wand to produce the right balance. During an intense schedule of hearings, we listened carefully to a wide range of excellent and expert witnesses. We discussed and argued about the very serious issues before us. Together, we tried to come up with what we think are workable improvements to the bill. One thing was clear: We understand the need for new powers and procedures and we support the principles of Bill C-36. We do not recommend eliminating any provisions of the bill.

Our recommendations focus on two issues: First, ensuring there are adequate and appropriate safeguards throughout the bill, especially to ensure that innocent people are not wrongfully caught in the net of terrorism and their reputations damaged forever; and, second, ensuring there is accountability to Parliament and therefore to Canadians for actions taken under this bill.

The bill contains a number of unusual powers that, if not unprecedented in Canadian law, certainly have never been part of our usual criminal justice process. At every stage, we wanted to ensure avenues for review of the exercise of these powers by an independent body. In some cases, it was possible and appropriate to recommend judicial review. For example, we suggest providing for an automatic and rapid referral to a higher court when a person is committed to prison for failure to enter into the requested recognizance under the preventive arrest provisions.

We were concerned about the proposed new certificates that the Attorney General could issue, barring disclosure of information under several Canadian statutes, including the Privacy Act and the Access to Information Act. We understand that there may be times when national security requires that information not be disclosed. However, these acts represent important Canadian values. In the end, we recommended that any such certificate should be reviewable by the Federal Court, which would be directed to balance the competing interests of disclosure on the one hand and international relations, national defence and national security on the other.

As drafted, these certificates, once issued, would be valid in perpetuity. The need to keep information secret can change with time and circumstances. We propose making the certificates last for a five-year period, with renewal subject to review by the Federal Court.

This bill for the first time legislates a mandate for the Communications Security Establishment, enabling it, among other things, to intercept certain communications involving Canadians in situations where the target of the interception is not in Canada. Ministerial authorization under defined conditions is required, but the committee added a recommendation that judicial authorization should be obtained wherever appropriate and feasible.

In some cases, judicial review was not feasible. In order to ensure independent review, we propose the appointment of a new officer of Parliament to monitor, as appropriate, the exercise of powers provided in the bill. For example, we were concerned about the bill's proposed "List of Terrorists." We recognize the need for this list, particularly for the purpose of freezing assets. However, history has taught us to approach such lists with great care. Mistakes can be made. The consequences for the individual wrongly identified as a terrorist can be life shattering. Indeed, we would prefer a different title and suggest a look at those in other countries such as Britain, where they refer to it as a prescribed list.

As drafted, the list would be established by cabinet on the recommendation of the Solicitor General. There is provision for appeal to a judge by someone who considers their name was wrongfully included, but that only takes place after the list has been published. To protect innocent reputations, then, we propose having the new officer of Parliament review the list before it is made public. We understand there may be times when this will not be possible. However, we limited those exceptions to cases of demonstrable urgency. We also recommended that no

one be placed on the list unless they knowingly facilitated a terrorist activity, and that is not in the bill.

Other recommendations need attention, honourable senators. We want to add a non-discrimination clause to the bill to address the deep concerns of various ethnic and cultural communities that they will be targeted. We suggest a change in wording, which would make a clear distinction between activities that may be illegal, for example, under labour legislation, and those that would be considered as terrorist activities. We want to be sure that due process is afforded to organizations denied charitable status on the basis of information that they are making resources available to terrorist entities. We recommend a right of appeal of a judicial decision that a certificate is reasonable.

Under the new Security of Information Act, which replaces the Official Secrets Act, we suggest the proposed designation of "persons permanently bound by secrecy" be subject to appeal or review as well as reconsideration after a certain passage of time or change of circumstances. The term "security" is used a number of times throughout the bill. For clarity, we recommend this be changed to "national security" and that that term be defined.

We also suggested that the words "terrorist activity" rather than "terrorism" be used consistently throughout the bill and that the new offence of mischief relating to religious property be changed to add the word "sex" to the list of motivating factors which now includes religion, race, colour, nationality or ethnic origin.

I have left to the end the issues that received the most public attention and, indeed, debate among committee members. What kind of review should Parliament have that would most effectively reflect the public interest? How can we best ensure that the Canadian public is able to see clearly how the powers under Bill C-36 are being exercised and whether in fact they are the right tools to help prevent terrorist activities?

We recommend that the proposed officer of Parliament table a report in Parliament at least once a year, or as he or she sees fit. If there are abuses of the powers provided, then that person can let us know at once. We ask that the Minister of Justice table an annual report in Parliament setting out the actions that have been taken that year under Bill C-36.

We are not seeking information that may compromise national security. Rather we are looking for facts, such as the number of times particular powers have been exercised, how many preventive arrests were made and with what results so Canadians can see how this is working.

The bill contains a major provision for a comprehensive parliamentary review of the operation of the act within three years after it comes into force. The Senate will be keen to participate and we recommend changing the language of the bill to clarify that both Houses of Parliament conduct separate reviews.

Reviews, honourable senators, can advise, but they cannot instruct or order or compel. The committee concluded that the legislation should include a broad sunset clause. We propose that within five years the government must return to Parliament to justify to Canadians why it believes that the powers granted under the bill should be continued. Clearly, it has the capacity to legislate changes to the new law at any time. This provision would set down a marker to assure Canadians that these powers, if continued, are sufficient without being exorbitant and that they continue to be justifiable and necessary in the battle against terrorism.

We also recognized that the ratification of international conventions on financing terrorism and terrorist bombings contained in the bill must not be subject to the forced expiration of a sunset clause.

• (1520)

Honourable senators, none of us on the committee expect that the war on terrorism will be won in three years or five years or into the horizon. We are, indeed, in uncharted territory here.

In summary, the government believes that the powers granted under this bill are the right ones for a tough job and that they can be exercised with standards of fairness and justice which Canadians expect. We share this goal but wish to revisit the matter after sufficient time has passed for us to have experience with the operation and implementation of these critical measures.

Honourable senators, this has been a challenging exercise because of the tremendous importance of what is at stake for all of us who are truly concerned with the freedom and protection of this country and all its citizens. I thank each of my colleagues on the committee and all those who joined in when they had the time. It was a great team. The only major concern occurred at the end of our process when, to the regret of many members, parts of the report were leaked to the media before the final version had been approved and tabled in this chamber.

Hon. Senators: Shame!

Senator Fairbairn: Throughout all these discussions, honourable senators, I have been grateful for the wisdom and the good nature of the deputy chairman of the committee, Senator Kelleher. All of us have benefited enormously from the experience and the patience of our clerk, Heather Lank, and the researchers from the Parliamentary Library, Ben Dolin and John Wright, all of whom will be with us the second time around.

We believe that we have offered reasonable ideas for changes to Bill C-36 which will help assure all Canadians that the government is well positioned to protect us from terrorist activities and will continue to exercise its powers and its authority in ways consistent with the values and the principles that all of us cherish in a country we love.

On motion of Senator Kinsella, for Senator Kelleher, debate adjourned.

[Translation]

ASIAN HERITAGE

MOTION TO DECLARE MAY AS MONTH OF RECOGNITION—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Poy, seconded by the Honourable Senator Carney, P.C.:

That May be recognized as Asian Heritage Month, given the important contributions of Asian Canadians to the settlement, growth and development of Canada, the diversity of the Asian community, and its present significance to this country.

Hon. Laurier L. LaPierre: Honourable senators, it is with great pleasure that I support the motion of the Honourable Senator Poy, seconded by the Honourable Senator Carney, that May be recognized as Asian Heritage Month.

[English]

I do so not only because I lived for 15 years in this present incarnation in the marvellous province of British Columbia, which I continue to call my home, but because I am convinced that the acceptance of this motion will go a long way toward repairing the ravages of history too often perpetrated against the Asian population of our country.

Like all the millions of people from all the lands of the planet, speaking over 150 languages and worshipping the gods of their ancestors, those of Asian origin came here to our beloved country to seek a better life, a home to be safe in, a chance to earn a living, to be reunited with their loved ones, to escape famine and torture and war and genocide. They came to find love, understanding and respect, room in which to grow, and a good place in which to bring up children in liberty and freedom.

Unfortunately, we did not treat these newcomers kindly, especially when they were not white. We did not like the Chinese very much. For example, in September 1907 there was a vicious attack on the Chinese in Vancouver. It was organized, if the word can be used, by the Asiatic Exclusion League made up of young white professionals, Christian churchgoers, freedom-loving workers and their unions, devoted matrons and what was called then the filthy rich. The day was well advertised by the media of the time, and it began with speeches and more speeches. Then the words turned into violence. The mob descended on Chinatown, breaking and smashing everything it could on the way. Most of the Chinese barricaded themselves in their houses, but those who did not were severely beaten.

Not satisfied with the destruction of Chinatown, the white people proceeded to the Japanese neighbourhoods, enriched that year with the addition of 8,000 new immigrants. The Japanese, armed with makeshift weapons, met their white assailants and routed them.

We did not like the Japanese, either. They have been here since 1877. We deemed them, along with the Chinese and other Asians, to be, and I quote, "unfit for full citizenship, obnoxious as they are to a free community and dangerous to the state." In 1907, we asked the Japanese government to limit the immigration of their people to 400 a year, a quota that 21 years later was reduced to 150. The white supremacists of British Columbia had their day.

They also had their day during the Second World War when, in an orgy of racism, we incarcerated 20,000 Japanese, breaking up their families and more or less confiscating their property. The rest of Canada, white Canada, applauded and lauded those who had perpetrated this ignominy in our name.

I will tell honourable senators that there were some bright rays in the total darkness of intolerance of those days. Here are two such rays.

In the old mining town of Britannia Beach, along the most beautiful sound in the world, a sound where I lived for 10 years, on the day the RCMP arrived to transport the Japanese workers and their families to the bullpens of the Pacific National Exposition, some white children hid their little Japanese friends in basements, abandoned warehouses, behind trees, and in secret places only children know about. Eventually, of course, they were found, and the friends had to be separated, but not without tears and much anger.

The second ray of hope came from the Japanese individual I interviewed in a series of programs which I did in Vancouver with the descendants of those incarcerated. That individual, about to be incarcerated, sold his house for \$1 to his neighbour who was a Sikh, asking the neighbour to look after it and to sell it back to him after the war for the true value it would have reached by then. When the Japanese came back, the Sikh handed over the property for \$1, the same amount he had paid for it.

When peace returned in 1945, we gave the Japanese a choice: either get out of Canada and return to Japan or move east to the Prairie provinces, Ontario and Quebec. Again families were split. Some of us protested, but not loudly enough. Only in 1948 did we stop this brutal persecution and give the Japanese the right to vote.

We did not like the Sikhs, either. The first Sikh arrived from the Punjab in 1904, and the immigration continued on unabated thereafter. Then the persecution began, a persecution led by the Mayor of Vancouver and ably assisted by the Trades and Labour Council of British Columbia. To exclude the Sikhs from Canada and to pacify the bigots of the West Coast, the Canadian government, with a remarkable ingenuity, passed an Order in

Council that prohibited the immigration of any Asian who did not get here by a continuous passage. We then ordered the steamship companies in India not to sell through-tickets to Canada. What lengths we shall go through.

Indian immigration stopped after that until Saturday, May 23, 1914, when a chartered ship, the *Komagata Maru*, with about 400 Indians on board, all British subjects, anchored in front of Vancouver Harbour. The would-be immigrants stayed there two months without food and water or medical attention, victims of the most brutal bureaucratic harassment imaginable, subjected to military force and police brutality, and intimidated by the local population, who made a circus of them.

• (1530)

Finally, unable to sustain the siege any longer, the *Komagata Maru* left for Calcutta with its human cargo. There the British troops and Indian police opened fire on the passengers. Several were killed and others were arrested and detained. The white man responsible for this atrocity was killed by a Sikh on October 21, 1914, and in honour of him, he was given a civic funeral. As for the passengers, Nehru, the Prime Minister of India, unveiled a monument to them at the beginning of 1952.

Here we are today, honourable senators, a time marked with anxiety and fear, which is turned too often against those who would come to us to seek a better life, to build a safe home, to have a chance to earn a living, to be reunited with their loved ones, to escape famine, torture, war and genocide, to find love, understanding and respect, to have a room in which to grow, a good place in which to bring up their children and, above all, to have liberty and freedom. Consequently, let us endorse this motion unanimously and with great enthusiasm. We owe it to ourselves. Long live Canada!

On motion of Senator Cools, debate adjourned.

[Translation]

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, on Wednesdays we try to conclude the business of the Senate as close to 3:30 p.m. as possible, to allow committees to sit. I would ask that all items on the Orders of the Day and on the Order Paper remain where they stand.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Thursday, November 8, 2001, at 1:30 p.m.

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OFFICIAL REPORT
(HANSARD)

Thursday, November 8, 2001

THE HONOURABLE DAN HAYS
SPEAKER



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(Daily index of proceedings appears at back of this issue.)

OFFICIAL REPORT

CORRECTION

Hon. Terry Stratton: Honourable senators, on Tuesday, November 6, Senator Murray spoke in support of amendments to Bill S-22 contained in the sixth report of the Standing Senate Committee on Agriculture and Forestry. The amendments would have the effect of designating the "Canadian horse" as "Canadian" in English and "Canadien" in French.

Unfortunately, the *Debates of the Senate* for that day did not catch the linguistic distinctions and continued to refer to "the Canadien horse" in the English version.

Honourable senators, on page 1654 and 1655, wherever Senator Murray refers to the proposed amendments and to the English version of the bill, the references should be to "the Canadian horse" — "Canadian" with an "a."

The corrections have already been made to the debates on the Senate Web site, but Senator Murray thought they should also be officially recorded in the chamber.

CORRECTION

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it was brought to my attention by Senator Murray that page 1651 of the *Debates of the Senate* indicates that I disagreed with his comments. The honourable senator and I should like the record to state that I did, in fact, agree with what he had to say.

The Hon. the Speaker: Honourable senators, is leave granted to make this correction?

Hon. Senators: Agreed

THE SENATE

Thursday, November 8, 2001

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

VETERANS' WEEK AND REMEMBRANCE DAY

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am honoured to rise today to remember the courage and selflessness of the men and women, past and present, who have served in our Canadian military forces around the world.

The Books of Remembrance that reside in the Peace Tower of this Parliament building record 114,710 names of those who gave their lives in defence of freedom. They sacrificed their lives on behalf of their fellow Canadians, but they also sacrificed their lives on behalf of people around the world whom they had never seen because they wanted to ensure that people everywhere had the same freedoms as were granted to every Canadian.

It is the common goal of everyone, from every country, to live in peace and freedom. However, there are times in the course of human history when we forget this common goal. We then realize, with sadness and regret, that peace and freedom always come at a cost. If nations had enough prescience, we might be able to prevent most, if not all, wars.

Although we have been blessed with benevolent leadership in Canada, most countries of the world have not been so fortunate. We cannot turn our backs on people who are suffering from circumstances they do not deserve. No matter the circumstances under which our military forces go to war, they have all done so in order to bring peace and freedom to those who live without it.

This year, the Veterans' Week theme is "In The Service of Peace." Our country is one of the most fortunate in the world because, since Confederation, we have never known war or occupation, but we do not take peace for granted. We understand that it is often transient, and we have been willing to bring peace to corners of the world where peace has been broken and public security shattered.

[Translation]

Canadians have always understood the necessity of providing humanitarian aid to populations in areas of conflict. We have always done our best to restore peace and to maintain it when it is still fragile.

Canadian men and women have taken part in both World Wars and the Korean War, and have served in the Balkans and in various conflicts in Africa and the Middle East.

Canadian troops are at present stationed at sea, as part of the battle to curb terrorism, so that civilians everywhere do not have to live in fear of violence.

[English]

As Mr. Paul Metivier, a veteran of the First World War, said here in this chamber yesterday, "Peace is worth fighting for."

We must remember that these struggles are an ongoing part of human history. When we look at sepia photographs or study famous battles, we must remember that veterans still walk among us, that Canadian men and women still serve their country. Their lives are just like ours, except they were called to make remarkable sacrifices and they rose to the occasion.

November 11 is a day to recognize the courage of those people who try to bring freedom to their fellow human beings under circumstances of incomprehensible hardship and difficulty. If we forget the sacrifices they have made for us, we will be forgetting the importance of a life lived in freedom and peace. We must never forget.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I wish to draw to your attention that this is the thirty-sixth anniversary of the Honourable Senator Forrestall being elected to the House of Commons.

Hon. Senators: Hear, hear!

• (1340)

Hon. J. Michael Forrestall: Honourable senators, I wish to thank colleagues for that acknowledgement.

Today, I want to do three things. First, I want to join with all Canadians during this Veterans' Week to find occasion to remember, in their own way, the sacrifice. I particularly want to draw to the attention of honourable senators the splendid historical evidence that was presented to Canadians in a formal way at the National Archives last night with the screening of a film, the story of Canada's only Black battalion. It was the number two construction battalion which served during the First World War. For the indignity extended to them by well-meaning and thoughtful but wrong people, I apologize for all of the hurt.

A few days ago, while going through *The Chronicle-Herald*, that great newspaper in Halifax, I ran across a letter to the editor from a high school graduate last year who is now attending the University of New Brunswick at Fredericton. Permit me to read it. I do so because our young people do care. Someone out there is getting the message out and it is an important message.

The letter states:

Dear Editor:

If someone saved my life today, would I forget them tomorrow? Would I thank them once and then forget? If they risk their life to save my own, would it be a waste of time to thank them for their trouble?

What if someone died for me? Giving their life for the lesser cause of my own? Taking the bullet, feeling the pain, suffering when it is unneeded, but taken anyway. A complete stranger, making the complete sacrifice. Would I deny him the gratitude he deserves? Could I sleep, knowing I awaken because another sleeps forever in my place? You tell me.

Please note that when I use "him" or "he," I do not mean to discriminate. Many women, young and old, fought and died for this country, Canada, and they deserve the same respect and awe bestowed on male veterans. We also must not forget those women on the homefront; they kept our country going while the bulk of our men were overseas. To all female veterans, nurses and seniors, a very special thank you.

Is one day enough to thank those who sacrificed themselves so that we could stand here in freedom today? Can we honestly say we deserve this country, Canada, when we can't even provide respect for those who have given their lives for us?

If someone saved your life today, would you forget them tomorrow? Where will you be this Nov. 11, Remembrance Day, at 11 a.m.?

The letter is signed "Ainsley Fuller, student, University of New Brunswick, Fredericton; graduate of Yarmouth High School Memorial Club."

I commend that letter to honourable senators for their thought.

Hon. B. Alasdair Graham: Honourable senators, Remembrance Day, as indicated already by the Leader of the Government in the Senate and by the Honourable Senator Forrestall, whom we congratulate on this momentous anniversary of his first coming to Parliament many years ago, always triggers a whole host of feelings among Canadians. The year 2001 inspires us with a very special need for reflection in view of recent events.

The CBC's outstanding series entitled *Far From Home* could not have come at a more moving time in our nation's history. Now, many Canadians are indeed far from home in the very complex, indefinable and the frightening war against terrorism.

For those of us — Senator Forrestall among them, along with myself and thousands of others — privileged to watch Operation Apollo leave historic Halifax harbour several weeks ago, the sense of calm resolution in the face of the unknown was palpable. That calm resolution has characterized the crowds of Canadians who have said goodbye to loved ones in all the wars of the last century.

Honourable senators, there are many lessons to be learned from these enormous challenges. At the very least, we in our generation must ensure that our children and their children, to the best of their ability, fully understand these important periods in our history.

Today, as we try to envisage what lies ahead in a new kind of war against enemies of the human race, many of us think back to other battles such as the Battle of Vimy Ridge, in 1917, a brilliant tactical victory and one of the great defining moments in our history as a nation. We know that the casualties of over 10,000 represented a very high price to pay, but for many military historians, this incredible effort at that time may have led to shortening the horror of the Great War by at least a year. It was also a victory that was accomplished by brilliant artillery organization, technical skills and an enormous awareness of operational manoeuvres.

Renowned Canadian historian Professor David Bercuson assessed the victory at Vimy this way. He said:

The Canadians leaned into the north wind and carried on despite adversity. They innovated, they experimented, they used imagination and genius to overcome the Ridge and the enemy on it. That is why they won at Vimy and virtually every other engagement they fought until the end of the war.

I might add, honourable senators, that such was the spirit of the times of the proud and courageous Canadians — only 6 million in number, but with a preparedness and an invincible determination which allowed them to punch much higher than their weight, as we have on other occasions.

On November 11, we pay tribute to their sacrifice. Today, as we face a new kind of enemy, we, as a nation, must reflect on the lessons they have taught us about skill, preparedness, imagination and operational manoeuvres and the consequences of those manoeuvres in a new kind of warfare.

These have always been the traditions and the practice of all those brave Canadians who fight for freedom far from home. They have done what the first Canadians have always done since the first human foot trod the northern half of this continent. They have leaned into the north wind. They have always carried on despite adversity. They have remembered the words of Sir Arthur Currie of Vimy that Canadians are best served by Canadians — then, now and forever.

• (1350)

Hon. Ethel Cochrane: Honourable senators, I also rise today in recognition of Remembrance Day. At this time each year, we honour our veterans and our peacekeepers for the sacrifices that they have made in the defence of freedom and the pursuit of world peace.

Like many other Canadians, I will take time to reflect on November 11 and stand with members of my local branch of the Royal Canadian Legion in solemn remembrance. I will go with the veterans and the community to lay a wreath at the war memorial in Stephenville.

No doubt this year, when we turn our thoughts to the price Canadians have paid and the battles we have waged for peace, we will find new meaning in the context of current events. Perhaps now, more than at any other time that many of us can remember, we will be counting on the Canadian Forces as well as our police and intelligence services to protect us from the enemy. We put our faith and trust in them to ensure peace and to restore the stability and the security we have all enjoyed for so many years.

Canada's history in securing and restoring peace is a rich and hard-fought one. Over the course of the last century, almost 2 million Canadians served in war and peacekeeping missions around the world, of whom 117,000 made the ultimate sacrifice.

As we have throughout our short history, Canadians are now standing on guard, prepared to do whatever is necessary to preserve the principles and ideas that have made our country great.

Honourable senators, please join with me in honouring all those who have served us so well in the past and in sending our heartfelt thanks and prayers to all those who continue this legacy by serving our country today.

[Translation]

Hon. Marisa Ferretti Barth: Honourable senators, Remembrance Day, November 11, is when we give special thought to the many Canadians who have taken part in our country's war efforts.

The purpose of this day is to draw attention to, and commemorate the courage of, all those who gave their lives in order to leave us a society in which freedom and democracy are key values.

Large numbers of Canadians left home and friends behind to join the conflict. It is important for those of us who are living in Canada today to remember the men and women who lost their lives for us and were unfortunately not able to enjoy the peace and freedom for which they so proudly fought.

I would also draw particular attention to the many Canadian men and women who are currently battling the terrorism that threatens the very bases of democracy.

I also wish to draw attention to those who have set off on warships with the warmth of last kisses still on their cheeks, not knowing whether they will make it back home to their families and friends before the holiday season. These kisses, they have to keep reassuring themselves, did not carry a message of "goodbye forever," but just "so long for a while."

[English]

November 11, 2001, is a day of remembrance. We deeply remember the glorious sacrifices made by our soldiers who fought and died for us.

[Translation]

In closing, all my thoughts today are with those who have defended our country with honour. The splendour of Canada is in large measure due to the courage of its heroic combatants.

[English]

THE LATE BETTIE HEWES

TRIBUTE

Hon. Tommy Banks: Honourable senators, I have the honour to rise to pay tribute to Bettie Hewes, who died suddenly at her home in Brockville. If one were to look in the dictionary beside the word "committed," one would find a picture of Bettie Hewes. One would also find her picture beside the words "determined, fearless, indefatigable and tenacious." Most important, one would find her picture beside the word "liberal" with both a capital and a small "L."

A chance meeting with Bettie Hewes on the streets of Edmonton, where she spent her political life, was a dangerous thing because you would inquire quite innocently about one or another of her enormously difficult and valuable civic projects and then 20 minutes later, without realizing what happened, you would find yourself on a committee or, worse yet, having been dragged into forming a committee to ensure that the task got done.

"Getting it done" was Bettie Hewes' operative phrase. She was a one-woman travelling bastion, bulwark and pillar of liberalism in Alberta at a time when, as Senator Taylor can attest, that was a very brave thing to be. Premier Ralph Klein said that Bettie Hewes was one of the most formidable foes he ever faced.

In her distinguished career as an MLA, as leader of the Liberal Party in Alberta, as a city councillor and as President of CNR, Bettie Hewes distinguished herself as she did in so many of her valuable civic undertakings.

To say that Bettie Hewes will be sadly missed is an abject understatement. She was a staunch ally and friend. Alberta public life is simply not the same now that she is gone. Even in her retirement from public life, she was never replaced: She was merely succeeded. God rest her beautiful soul.

THE LATE MALAK KARSH, O.C.

TRIBUTE

Hon. Raymond C. Setlakwe: Honourable senators, it is with a heavy heart that I rise today in this chamber to pay tribute to my cousin Malak Karsh. No one loved Canada and its people more than he. This love was always reflected in his photographs. His country recognized this professional quality when he became an Officer of the Order of Canada. His beloved City of Ottawa gave him, along with his brother Yousuf, the keys to this great city.

At one point, the old Canadian one-dollar bill had a photograph on one side of the Queen taken by Yousuf, and on the other side was a photograph of a logjam on the Ottawa River taken by Malak.

Honourable senators will know that Malak took the most recent photograph of this chamber and the senators. He was also the author of the magnificent book, *The Parliament Buildings*.

Above all, however, Malak was loved and appreciated for his outstanding human qualities. He had the gift of simplicity that all great people possess. Anyone who came in contact with him, and there are many of those in this chamber, felt a special bond. Like a poet, Malak could always see a world in a grain of sand and a heaven in a wildflower.

I spoke to Malak last Sunday and he was pleased to inform me that the National Capital Commission had named a tulip bed close to the river at the Museum of Civilization in his name.

Malak, of Armenian descent, arrived in Canada in 1938 and spent the war years on a minesweeper in the North Atlantic. While apprenticing with his brother Yousuf, Malak met his wife, Barbara, and she has been by his side ever since. He was always the first to recognize that without her he would never have succeeded as well as he did. They were inseparable. As of yesterday, they were putting the finishing touches on a new book about Canada that will be published in Iceland.

To Barbara and their children, Sydney, Lawrence, Michael, Marianne, and their grandchildren, I extend my deepest sympathy.

• (1400)

THE HONOURABLE HERBERT ESER GRAY, P.C.

CONGRATULATIONS ON BECOMING LONGEST-SERVING PARLIAMENTARIAN

Hon. Isobel Finnerty: Honourable senators, today a new record of service is being celebrated in Parliament.

Until yesterday, the longest unbroken period of parliamentary service in the House of Commons was held by the late Right Honourable John Diefenbaker. Today, Mr. Diefenbaker's record has finally been exceeded by the Honourable Herb Gray, Deputy Prime Minister and a member of the House of Commons for Windsor since 1962. Herb Gray has now been a member in the other House of Parliament for 14,389 days of unbroken service.

This remarkable Canadian has been a minister of the Crown in six portfolios. He served as Deputy Prime Minister and as Leader of the Opposition for more than 10 months in 1990.

To be quite blunt, Herb Gray is a public figure unequalled in the political life of our nation. I have always found him to be a fountain of knowledge, an eminent adviser, and a consummate gentleman.

I am sure that all honourable senators extend to him every good wish as he continues his career. Dare I say that all of us should look forward to his re-election in the next federal election.

Hon. Bill Rompkey: Honourable senators, I rise to join Senator Finnerty in offering congratulations to Herb Gray. He was in the House of Commons when I was first elected in 1972. He is still there after I have been gone for six years.

There are two things I want to say about Herb Gray. Some of those mischievous people in the press call him Gray Herb. However, he is anything but grey. He is the wittiest man I know. The best part of his humour is the self-effacing part. On the wall of his office are all the cartoons that have been printed about him over the years, making fun of him. He enjoys that so much.

Herb Gray puts service before self. I think it is a lesson to all of us in politics that one can be successful and yet be self-effacing, because that is exactly what Herb Gray is. We are so often a profession of egos, yet Herb Gray is one of those who has shown us that sometimes one can subvert ego to the greater service. That is, I think, his outstanding legacy: He has put service before self.

It was John Kennedy who defined politics as a calling. There was a day when many other people thought that was the case. It is a concept that I share.

Unfortunately, the profession of politics falls into disrepute from time to time, but as long as people like Herb Gray are around, there will be a beacon to all of us who believe that public service is just that — it is service. We get satisfaction from serving the public. That is the greatest lesson I have learned from Herb Gray. Like Senator Finnerty, I want to be there at his next election.

[Translation]

ROUTINE PROCEEDINGS

REPLACEMENT OF SEA KING HELICOPTERS

DOCUMENT TABLED

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table documents sent to me by the Assistant Deputy Minister of National Defence (Materiel), Allan Williams. The document comprises four slides on the Cormorant search and rescue helicopters, which he promised when he appeared before committee of the whole.

[English]

YOUTH CRIMINAL JUSTICE BILL

REPORT OF COMMITTEE—POINT OF ORDER

Hon. Lorna Milne: Honourable senators, I have the honour to present the tenth report of the Standing Senate Committee on Legal and Constitutional Affairs, which deals with Bill C-7, in respect of criminal justice for young persons and to amend and repeal other acts.

A Clerk at the Table: The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its tenth report.

Your Committee, to which was referred Bill C-7, *An Act in respect of criminal justice for young persons and to amend and repeal other Acts*, has in obedience to the Order of Reference of September 25, 2001 —

Hon. John Lynch-Staunton (Leader of the Government): Honourable senators, on a point of order, if copies are available, we should like to know the content of the report. If the committee chairman can make copies of the report available today, we can have the report before the Senate adjourns for the recess. Otherwise, it will have to be read for the record.

A Clerk at the Table: The report continues:

— examined the said Bill and now reports the same with the following amendments:

1. Pages 2 to 4, Clause 2:

(a) Page 2,

(i) Add immediately before line 3, on page 2, the following:

“2. (1) An object of this Act is for the law of Canada to be in compliance with the United Nations Convention on the Rights of the Child, and this Act shall be given such fair,

large and liberal construction and interpretation as best assures the attainment of this object.”; and

(ii) Renumber subclauses 2 (1) to (3) as (2) to (4) and any cross-references thereto accordingly.

(b) Page 3, Replace lines 30 to 38 with the following:

“(a) an offence committed, or alleged to have been committed, by a young person who has attained the age of sixteen years, under one of the following provisions of the *Criminal Code*.”; and

(c) Page 4,

(i) Replace lines 5 to 15 with the following:

“(b) a serious violent offence for which an adult is liable to imprisonment for a term of more than two years committed, or alleged to have been committed, by a young person after the coming into force of section 62 (adult sentence) and after the young person has attained the age of sixteen years, if at the”; and

(ii) Replace line 21 with the following:

“committed a serious violent offence and if at the time of the commencement of proceedings the Attorney General does not elect, in writing, to decline to treat the offence as a presumptive offence.”.

2. Page 17, Clause 19: Add after line 17 the following:

“(5) Rules established under subsection (3) for the convening and conducting of conferences must

(a) provide for the right of the young person to attend with counsel; and

(b) comply with the principles of procedural fairness and natural justice.”

3. Page 21, Clause 25:

(a) Delete lines 21 to 31, and;

(b) Renumber subclause 25(11) as subclause (10) and any cross-references thereto accordingly.

4. Page 38, Clause 38:

(a) Replace lines 27 and 28 with the following:

“for that offence;

(d) all available sanctions other than custody that are reasonable in the circumstances should be considered for all young persons, with particular attention to the circumstances of aboriginal young persons; and

(e) subject to paragraph (c), the sentence”; and

(b) Renumber all references to paragraph 38(2)(d) as references to paragraph 38(2)(e).

5. Page 57, Clause 50: Replace line 23 with the following:

“except for paragraph 718.2(e) (sentencing principle for aboriginal offenders), sections 722 —

[Translation]

Hon. Marcel Prud'homme: Honourable senators, there are limits. You know the rules, and I know you want to follow them. If there is no translation of the documents, we do not proceed. It is as simple as that. It is a fundamental principle. I have seen plenty of precedents. No translation? We will continue when there is.

[English]

Too bad; so sad.

[Translation]

We will continue when the translation is available.

[English]

Hon. Jean-Robert Gauthier: Honourable senators, I have a personal reason for objecting. I cannot follow the debate if there is no interpretation. I am not a part-time senator. I am here almost all the time. Please wait a few minutes and we will have the report as the minister promised.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, we agree to take Senator Kinsella's suggestion that we revert to Presentation of Reports from Standing or Special Committees when the report has been distributed to all senators and the interpreters later today.

[English]

The Hon. the Speaker: Honourable senators, I have treated this as a matter of order, and I think it is a matter of order. The suggestion is that I ask leave of the house to revert to Presentation of Reports from Standing or Special Committees later this day for purposes of receiving this report, if it is ready. Is it your pleasure, honourable senators, to do that?

Hon. Senators: Agreed.

[Translation]

SCRUTINY OF REGULATIONS

THIRD REPORT OF JOINT COMMITTEE TABLED

Hon. Céline Hervieux-Payette: Honourable senators, it is my pleasure to table the third report of the Standing Joint Committee on Scrutiny of Regulations, which deals with certain articles of the Royal Canadian Mounted Police Regulations, 1988.

I would add, honourable senators, that these are provisions regarding the eligibility of members of the force for participation in political activities. I invite honourable senators to read our report.

The Hon. the Speaker: I would ask the Table officer to pause in his reading of the report. There is no translation of the report into the other language. The interpreters need a copy for the purposes of their interpretation.

Honourable senators, we can proceed with the reading of report, as we are doing, or we can agree to return to this matter later in the day when the interpreters have the necessary material before them.

• (1410)

Do honourable senators object to us continuing with the reading of the report?

Senator Lynch-Staunton: Honourable senators, I think my point has been confirmed; that is, not only are there no copies for senators, but there are no copies for the interpreters. If the chairman had been a little more considerate, she would have waited to table the report until copies were available, particularly for those who are having a great deal of difficulty interpreting this difficult technical material.

I have no objection to ending the reading of the report. I would prefer, however, that the chairman withdraw the report and reintroduce it when copies are available, particularly for those upstairs who are charged with interpreting it.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the amendments have been made. They are all available. There is no reason why staff cannot make copies of that report and circulate it to senators within a very short period of time. I see no reason for the withdrawal of the report. I am prepared to delay the further reading of the report until such time as we have distributed it. If we have distributed it and the other side still wants it read, then so be it.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, under the circumstances, the better solution would be to grant consent later this day to revert to Presentation of Reports from Standing or Special Committees when the report is properly ready with the copies that are to be appropriately circulated when a report is presented. If the government side would agree with us, we could revert to this item when the documents are ready.

Hon. Eymard G. Corbin: Honourable senators, I simply want to state that the principle that applies to official languages and interpretation is just as important, if not more, than the principle that applies to the availability of copies.

[English]

QUESTION PERIOD

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS— UNBUNDLED PROCUREMENT PROCESS

Hon. J. Michael Forrestall: Honourable senators, my questions are directed to the Leader of the Government in the Senate. She will be happy to know, after her quips yesterday, that representatives of the firm that produces the custom-built VH-3s have assured me that the VIP derivative — and I underline the word “derivative” — of the Sea King bears absolutely no resemblance whatsoever to the Sea Kings currently being operated by the Canadian Armed Forces out of Shearwater and on the West Coast. They are clear about that.

Even so, the minister should know — and if she does not I am pleased to draw it to her attention — that the President of the United States spends much more time in the Sikorsky Black Hawk, not in the Sea King. I wonder why? I understand the Queen of Canada also has her choice of vehicles.

As I indicated the other day, I have in my possession the speaking points of the favourite witness of the Leader of the Government in the Senate — Assistant Deputy Minister of Public Works and Government Services Jane Billings. The notes for July 26, 2000, are entitled “Speaking Points on the Maritime Helicopter Acquisition Project.” You will all remember Ms. Billings. She is the one who could not reply to our questions because, apparently, she was not there.

Her speaking points for July 26 state that the helicopter mission systems, systems integration and in-service support would fall under one competition. However, her notes for July 27, 2000, state that the government decided on a split procurement for the helicopter mission systems and the in-service support for both air frame and mission systems.

What happened overnight between July 26 and July 27, 2000, to so abruptly cause the government to change its mind?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, let me go back to a few of the preambles. I thought that Jane Billings, when she appeared before our committee, was extraordinarily forthright. She answered every question that was put to her. To cast aspersions on that witness and say, as the honourable senator has said this afternoon, that she would not answer questions is absolutely wrong. She did answer every single question put to her.

• (1420)

In terms of what magically happened July 26 or 27, I would suggest nothing happened magically July 26 or 27. The government made a policy decision. The cabinet made a policy

decision. It is a policy decision that I think is in the best interests of the greatest number of companies in this country.

Senator Forrestall: Honourable senators, that flies in the face of information contained in these very speaking points and information made available to this chamber over a long period of time. Can the minister tell us what caused the government to change its policy when clearly it knew from every single bit of professional advice that it was given on the acquisition process for this, both militarily and from the Department of Public Works, that the unbundling of this contract would have a very detrimental effect on the regional and national distribution of industrial benefits flowing from the award of this contract? Why?

Senator Carstairs: With the greatest of respect to the honourable senator, the government simply does not believe the argument that he is putting forward. It believes that the unbundling of the contract will, in fact, give more corporations viably active in Canada a greater opportunity to be part of this bidding process.

Senator Forrestall: Would the minister take advantage of the week of adjournment ahead to reread the documentation now in the public realm? We will take up this discussion in a week or 10 days.

Senator Carstairs: Honourable senators, the minister, and I assume the honourable senator is referring to me, has availed herself of every opportunity and every document, those provided by Public Works, those provided by DND, and those provided by the honourable senator himself. Frankly, I do not think, with the greatest of respect to the honourable senator, that my answers will change.

Senator Forrestall: I would bet my life on it, but I hate betting pilots' lives on it.

FOREIGN AFFAIRS

AFGHANISTAN—AID TO REFUGEES

Hon. Douglas Roche: Honourable senators, my question is directed to the Leader of the Government in the Senate. A few minutes ago, Lloyd Axworthy, former Foreign Minister, just back from Pakistan, appeared on national television on behalf of Oxfam, reporting that up to 100,000 Afghan people are at risk of starvation because relief supplies cannot get through as a result of the bombing campaign. Mr. Axworthy is appealing for a halt in the bombing so that relief supplies can reach desperate people. A seminar yesterday in Ottawa convened by the Canadian Council of Churches heard similar calls.

An increasing number of Canadians are asking: What is it that the coalition is bombing, and why? When I raised this issue with the Leader of the Government two days ago, the minister said she would take my questions forward to cabinet. I ask today: Can the minister inform the Senate whether these humanitarian concerns being increasingly expressed are truly being heard by the government?

Hon. Sharon Carstairs (Leader of the Government): I can assure the honourable senator that the humanitarian concerns are being heard and are one of the reasons the government has been so responsive in terms of humanitarian aid not only to Afghanistan but also to Pakistan. They are clearly uppermost in the mind of government officials as we proceed with the war on terrorism.

TRANSPORT

AIRPORT SECURITY

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate.

We have heard the Minister of Transport and other representatives of this government say repeatedly since September 11 that security systems at Canada's airports are far superior to those of other countries. Of course, lo and behold, reports in today's *Globe and Mail* and last night on CTV national television poke a few holes in this claim. Apparently, the security screening process did not detect a box cutter and pen knives and other items that a *Globe and Mail* reporter was able to carry upon two flights. She was checked twice, going to Victoria leaving Toronto, and coming back. They missed on both tries. The government ought to launch an inquiry into this security breach. What other measures is the government considering to avoid such problems in the future?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the Americans learned last week when someone got through their security system with guns and a number of knives, I think up to eight, as long as this system is operated by human beings, it will not be a perfect system. Since we do not know what other systems we can use except those involving human beings, I am not sure how we can absolutely perfect the system so that it never, ever has a failure.

Honourable senators, the government is working very hard —

Senator Lynch-Staunton: Israel does it.

Senator Carstairs: — to ensure that there are as few failures as there possibly can be. Senator Lynch-Staunton shouted across the way —

Senator Lynch-Staunton: I did not shout.

Senator Carstairs: — the success of the Israeli air system. Those of us who have been through it know how extensive that process is. It also, by the way, deals with very few passengers in relative terms on a daily basis. The government is working towards having the most secure system possible. When we have breaches like the one mentioned, then they must be investigated thoroughly.

Senator Stratton: Honourable senators, that really does not leave me feeling very comfortable. We all, for the most part, get

on airplanes, and a great number of Canadians fly on these aircraft. I will leave that for another day. It is worrisome that that kind of thing can happen. It virtually encourages something else to happen.

STATE OF AIRLINE INDUSTRY—TRANSPORTATION POLICY

Hon. Terry Stratton: Honourable senators, I turn to another issue regarding transportation. I should like to ask the Leader of the Government in the Senate: Will we have any aircraft to fly, with Air Canada and Canada 3000 virtually reaching the stages of bankruptcy?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, it is clear that both airlines are still flying their routes throughout this country. The Minister of Transport and his officials are working with both companies, as with other companies, to ensure that we have viable and active flying routes in Canada.

Senator Stratton: I guess my concern is that we are reacting. We are always reacting to situations. We react to the security issue at the airports. We react to Air Canada getting in trouble. We react to Canada 3000 getting in trouble. Will the government examine the issue of air transportation and contemplate re-examining its airline policies?

Hon. Nicholas W. Taylor: Are we supposed to take over airlines before they go out of business?

Senator Carstairs: With the greatest of respect, the Honourable Senator Stratton says, "we react to." We tend to react to most decisions made in the private sector. We plan what is going to go on in the public sector.

Senator Taylor has clearly raised a significant issue. Do we want the Canadian government to take over the operation of all airlines in this country? Is that what the opposition is suggesting this afternoon?

Senator Lynch-Staunton: How about a little competition? How about some foreign airlines coming in? How about open skies?

Hon. David Tkachuk: We are not asking that the government take over the airlines; we are asking for a national transportation policy. Last summer, Mr. Collenette broke his own rules on competition policy by allowing Mr. Schwartz to buy both airlines, causing chaos, and causing financial chaos in the airline industry. There is only one place where Air Canada's woes should be drawn, not on their own problems since the events of September 11, but on the mishandling of transportation policy by Minister Collenette in trying to create a monopoly situation run by a Liberal friend out of Winnipeg.

Senator Carstairs: Honourable senators, the information coming across this way is not making much sense to me. First, Mr. Schwartz did not buy an airline. Second, Mr. Schwartz does not live in Winnipeg.

• (1430)

I am having great difficulty understanding the questions emanating from that side of the chamber.

Senator Tkachuk: Honourable senators, Mr. Schwartz was being urged to buy an airline by Minister Collenette. Air Canada reacted, therefore, and picked up Canadian Airlines, which Mr. Collenette should have left alone to face its own creditors. However, he refused to do so and Air Canada is in deep financial trouble today. It is because of the transportation policy of the federal government that Air Canada is in trouble and not just as a result of the events of September 11.

Senator Carstairs: Again, the whole presentation from the honourable senator is verging on the bizarre. The Minister of Transport did not tell Air Canada what to buy. Air Canada made a decision that it wanted to enter into the bidding process with Canadian and, in fact, ratcheted up the price of Canadian, but it is a private company. It seems to me that that started under a previous administration.

INTELLIGENCE AND SECURITY

LIST OF TERRORISTS AND TERRORIST GROUPS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is directed to the Leader of the Government in the Senate. There is a government news release dated today that advises us that Finance Minister Paul Martin and Foreign Affairs Minister John Manley have announced that the government has listed an additional 83 individuals and organizations linked to terrorism. The property of these individuals and organizations is to be frozen and reported to the relevant authorities.

My first question is: How many does that add up to in terms of who is on this list?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I have to say that I cannot answer that question. Like the honourable senator, I know of the additional new list of 83 individuals and organizations. I do not know whether those are 83 new names or whether it is 83 names in total. I will attempt to get clarification for the honourable senator.

Senator Kinsella: I thank the honourable senator for that.

I have two questions that flow from this issue. First, the government's press release, in reference to the additional 83 individuals and organizations, states "that they are linked to terrorism." That is a serious statement. Is it an allegation or has it been proven?

Second, later in the same press release it states:

A copy of the letter and a list of persons and entities can be found on the OSFI Web site...

It then gives the Web site address. OSFI is the Office of the Superintendent of Financial Institutions.

Are we to understand that when some organization or individual is assumed by the Government of Canada to be linked to terrorism, they put their name on this list and this list then gets put on the Web site? Is the presumption of innocence out the door with this government in this matter? Could the honourable minister explain the process, at least?

Senator Carstairs: Honourable senators, I will do my best. Pursuant to the United Nations Suppression of Terrorism Regulations, the Governor in Council, on the recommendation of the Minister of Foreign Affairs, establishes a list of those individuals and entities that it believes, on reasonable grounds, are involved in or associated with terrorist organizations. The decision to include a name on the list is based on an assessment by Canada's law enforcement and intelligence agencies, such as the RCMP and CSIS, which review information from a wide range of sources, both domestic and international. On their advice, the cabinet makes a decision on any name that should be added to the list.

Senator Kinsella: Honourable senators, I thank the honourable minister for her answer.

What safeguards does the government intend to set in place to protect innocent individuals or groups who end up having their names placed on this list and then published on the Internet? Great damage can be caused to their reputation and integrity by having their names associated with terrorism. What safeguards are made available by the government for those whose names are published and yet are totally innocent?

Senator Carstairs: Honourable senators, the government works with the Office of the Superintendent of Financial Institutions, which is the Web site to which the honourable senator referred, and they in turn work with other financial institutions to remove any confusion about whose assets are supposed to be frozen, and to ensure that only those assets of these people or entities listed are frozen. Further, if there is a case of mistaken identity that cannot be resolved in this way, the United Nations Suppression of Terrorism Regulations provide for a person or entity to get a certificate from the Minister of Foreign Affairs confirming that they are not a listed individual.

Senator Kinsella: Honourable senators, a business operation in the south of Ottawa that transferred funds, particularly from the Canadian Somalia community in Ottawa to family members in Somalia, was visited by police authorities yesterday. Can the leader tell us whether that hawala is listed among those 83?

Senator Carstairs: Honourable senators, as probably has been apparent, I am reading carefully from the notes I have been given because this is one of those issues about which we must not get anything but the most correct information on the record.

With respect to the specific question that the honourable senator has asked, the RCMP does not confirm or deny their investigations, nor do they provide details regarding ongoing investigations, and this is a perfect example. The RCMP has assured the Solicitor General that they continue to cooperate with Canadian and international law enforcement partners in sharing information and intelligence, and that is the extent of the information that I can provide to the honourable senator at this time.

TRANSPORT

AIRPORT SECURITY—ACTIONS OF JOURNALIST INVESTIGATING PROCESS

Hon. Laurier L. LaPierre: Honourable senators, my question is for the Leader of the Government in the Senate. Is she aware that Ms Wong, of *The Globe and Mail*, with her little excursion, readily and deliberately breached security in the pursuit of a story? Furthermore, in displaying on the tray on the plane her various pieces of equipment, she endangered the security of the passengers. The plane could have been diverted or military aircraft could have accompanied the plane for a landing. In other words, could this be described as mischief that might be, in the short run, criminal?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the honourable senator for providing that information to the chamber this afternoon. However, as he well knows, it is not up to me to determine whether a matter is mischief under its criminal or non-criminal definition. That would be up to the RCMP, and should they indicate that they are investigating, it would not surprise me if they were. They and they alone will determine if they are provided with sufficient proof that a charge should be laid.

[Translation]

DELAYED ANSWER TO ORAL QUESTION

The Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, it is my pleasure to table a response to a question raised by Senator Di Nino on September 26, 2001, regarding the state of sanctions against Pakistan and India.

FOREIGN AFFAIRS

STATE OF SANCTIONS AGAINST INDIA AND PAKISTAN

(Response to question raised by Hon. Consiglio Di Nino on September 26, 2001)

On October 1, 2001, Minister Manley and Minister Minna announced an easing of sanctions against Pakistan, except for the ban on military sales. The announcement was in recognition of the stance taken by Pakistan to support the international campaign against terrorism. As for India, Minister Manley had announced the easing of sanctions last March (again with continuing restrictions on military sales).

[English]

YOUTH CRIMINAL JUSTICE BILL

REPORT OF COMMITTEE

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

• (1440)

Hon. Lorna Milne, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, November 8, 2001

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TENTH REPORT

Your Committee, to which was referred Bill C-7, *An Act in respect of criminal justice for young persons and to amend and repeal other Acts*, has in obedience to the Order of Reference of September 25, 2001, examined the said Bill and now reports the same with the following amendments:

1. Pages 2 to 4, Clause 2:

(a) Page 2,

(i) Add immediately before line 3, on page 2, the following:

“2. (1) An object of this Act is for the law of Canada to be in compliance with the United Nations Convention on the Rights of the Child, and this Act shall be given such fair, large and liberal construction and interpretation as best assures the attainment of this object.”; and

(ii) Renumber subclauses 2 (1) to (3) as (2) to (4) and any cross-references thereto accordingly.

(b) Page 3, Replace lines 30 to 38 with the following:

“(a) an offence committed, or alleged to have been committed, by a young person who has attained the age of sixteen years, under one of the following provisions of the *Criminal Code*.”; and

(c) Page 4,

(i) Replace lines 5 to 15 with the following:

“(b) a serious violent offence for which an adult is liable to imprisonment for a term of more than two years committed, or alleged to have been committed, by a young person after the coming into force of section 62 (adult sentence) and after the young person has attained the age of sixteen years, if at the”; and

(ii) Replace line 21 with the following:

“committed a serious violent offence and if at the time of the commencement of proceedings the Attorney General does not elect, in writing, to decline to treat the offence as a presumptive offence.”

2. *Page 17, Clause 19:* Add after line 17 the following:

“(5) Rules established under subsection (3) for the convening and conducting of conferences must

(a) provide for the right of the young person to attend with counsel; and

(b) comply with the principles of procedural fairness and natural justice.”

3. *Page 21, Clause 25:*

(a) Delete lines 21 to 31, and;

(b) Renumber subclause 25(11) as subclause (10) and any cross-references thereto accordingly.

4. *Page 38, Clause 38:*

(a) Replace lines 27 and 28 with the following:

“for that offence;

(d) all available sanctions other than custody that are reasonable in the circumstances should be considered for all young persons, with particular attention to the circumstances of aboriginal young persons; and

(e) subject to paragraph (c), the sentence”; and

(b) Renumber all references to paragraph 38(2)(d) as references to paragraph 38(2)(e).

5. *Page 57, Clause 50:* Replace line 23 with the following:

“except for paragraph 718.2(e) (sentencing principle for aboriginal offenders), sections 722 (victim impact state-”

6. *Page 68, Clause 61:*

(a) Delete lines 23 to 28; and

(b) Renumber clauses 62 to 200 as clauses 61 to 199 and any cross-references thereto accordingly.

7. *Pages 79 and 80, Clause 76:*

(a) *Page 79*, Replace lines 16 to 19 with the following:

“(b) a youth custody section of a provincial correctional facility for adults, in which young

persons are kept separate and apart from any adult who is detained or held in custody; or

(c) if the sentence is for two years or more, a youth custody section of a penitentiary, in which young persons are kept separate and apart from any adult who is detained or held in custody.”;

(b) *Page 80*, Replace lines 18 to 21 with the following:

“(b) a youth custody section of a provincial correctional facility for adults, in which young persons are kept separate and apart from any adult who is detained or held in custody; or

(c) if the sentence is for two years or more, a youth custody section of a penitentiary, in which young persons are kept separate and apart from any adult who is detained or held in custody.”.

8. *Page 113, Clause 110:* Replace line 29 with the following:

“(2) When the youth justice court, on application of the prosecutor, determines that the public interest will best be served, subsection (1) does not apply”.

9. *Pages 129 and 130, Clause 125:*

(a) *Page 129*, Add after line 31 the following:

“(7) A youth justice court judge shall disclose to a representative of any school board or school or any other educational or training institution any information contained in a record kept under section 114 if the disclosure is necessary

(a) to ensure compliance by the young person with an authorization under section 91 or an order of the youth justice court;

(b) to ensure the safety of staff, students or other persons; or

(c) to facilitate the rehabilitation of the young person. “; and

(b) *Pages 129 and 130*, Renumber subclauses 125(7) and (8) as subclauses (8) and (9) and all cross-references thereto accordingly.

10. *Pages 145 and 146, Clause 146:*

(a) *Page 145*, Delete lines 37 to 46; and

(b) *Page 146*, Renumber subclauses 146(7) to (9) as subclauses (6) to (8) and any cross-references thereto accordingly.

11. Page 150, New Clauses 158 and 159:

(a) Page 150, Add after line 40 the following:

“Review of Act

158. (1) Three years after the coming into effect of the Act and at the end of every five-year period thereafter, the Minister of Justice shall undertake a comprehensive review of the operation of this Act and cause to be laid before both Houses of Parliament a report thereon including any recommendations pertaining to the amendments to this Act that the Minister considers necessary or desirable.

(2) For the purpose of the report referred to in subsection (1), the Minister shall consult the Attorney General of every province and persons, groups or class of persons or a body appointed or designated by or under this Act or an Act of the legislature of a province and representatives of aboriginal people of Canada.

159. (1) As soon as the Minister of Justice's report has been laid before both Houses, a comprehensive review of the report and of the provisions and operation of this Act shall be undertaken by such committees of the Senate, of the House of Commons or of both Houses of Parliament as may be designated or established by the Parliament to determine if the objectives of the Act are met in various provinces across Canada.

(2) The committee referred in subsection (1) shall, within six months after the completion of the review undertaken pursuant to that subsection or within such further time as Parliament may authorize, submit a report on the review to Parliament including a statement, if any, as to any changes the committee recommends.”; and

(b) Renumber clauses 158 to 200 as clauses 160 to 202 and any cross-references thereto accordingly.

Respectfully submitted,

LORNA MILNE
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Milne, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

ORDERS OF THE DAY

MISCELLANEOUS STATUTE LAW AMENDMENT BILL, 2001

SECOND READING—DEBATE ADJOURNED

Hon. Fernand Robichaud (Deputy Leader of the Government) moved the second reading of Bill C-40, to correct

[Senator Milne]

certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain provisions that have expired, lapsed or otherwise ceased to have effect.

He said: Honourable senators, the title of this bill says it all. This act seeks to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain provisions that have expired, lapsed or otherwise ceased to have effect.

This bill is the result of a report presented in the Senate by the Chair of the Standing Senate Committee on Legal and Constitutional Affairs, which examined proposed amendments to ensure that they met the following criteria: be non-controversial; not include the spending of public monies; not adversely affect human rights; not create offences; and not subject a new category of accused persons to an existing offence.

Bill C-40 reflects the review made of the proposed changes, which were not all accepted.

Honourable senators, I move that this bill be read the second time.

[English]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I assumed that the task of critic for the opposition on Bill C-40 would be a straightforward task, as we discussed the other day when we had the report from the Standing Senate Committee on Legal and Constitutional Affairs. However, as so often happens when we are given a bill that is described as “straightforward,” it is soon realized that it contains elements that question such an assumption.

Honourable senators, clause 44 of Bill C-40, page 12, contains a serious parchment error. There are 25 pages in total, and given that there is an error on page 12, I will take the next few days to read the remainder of Bill C-40 for fear that I may find something more profoundly wrong than the parchment error.

On motion of Senator Kinsella, debate adjourned.

CANADA CORPORATIONS ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Atkins, seconded by the Honourable Senator Keon, for the second reading of Bill S-30, to amend the Canada Corporations Act (corporations sole).—(*Honourable Senator Corbin*).

Hon. Eymard G. Corbin: Honourable senators, Senator Atkins had indicated to me that he would be unavoidably absent. However, I would not say anything at this time that would challenge the foundations of Bill S-30 that he is presenting to us. I have had many opportunities, over the past years, to deal with the issue of the incorporation of corporations sole by Parliament.

Honourable senators, I do not intend to review the legislative history of that initiative. Much of the bill is technical and much of it is administrative. In my opinion, the best thing to do with the bill is speed it on to committee, where it will receive all the attention it deserves. In that way, supporters of the initiative and opponents of the initiative — charitable organizations, for example — will be given the opportunity to express their views. Bill S-30 is much along the classic lines of a bill that is best dealt with in committee.

The Hon. the Speaker: Is the house ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Kinsella, bill referred to Standing Senate Committee on Banking, Trade and Commerce.

• (1450)

NATIONAL HORSE OF CANADA BILL

REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Murray, P.C., for the adoption of the sixth report of the Standing Senate Committee on Agriculture and Forestry (Bill S-22, to provide for the recognition of the *Canadien* Horse as the national horse of Canada, with amendments), presented in the Senate on October 31, 2001.—(*Honourable Senator Hubley*).

Hon. Elizabeth Hubley: Honourable senators, it is a pleasure to rise today in support of Bill S-22, which seeks to have the Canadian horse recognized as our national horse.

Horses occupy a proud and glorious place in the history of Prince Edward Island going back to the earliest European settlements. Island folklorist and historian John Cousins tells me the first Clydesdale horse in Canada arrived at Charlottetown

with a group of English settlers in 1830. Horses were an indispensable part of pioneer life. They helped to clear the land, haul wood for the winter and represented the only means of transportation between settlements.

At the turn of the 20th century, there were more horses per capita on Prince Edward Island than in any other part of Canada. As some honourable senators may know, we were the only jurisdiction in North America to ban the automobile so that horses could enjoy complete supremacy of the roadways. Even as late as 1951, nine of ten Island farms used horses on a regular basis.

With such a strong affinity between Islanders and horses generally, one might expect to find the Canadian horse roaming through the fields of our early history, and find him we do. For a period of time in the mid-18th century, prior to the British conquest, Prince Edward Island, or Île St-Jean as it was then called, played an important role as a supplier of food to the great French fortress at Louisbourg. The Acadian plowmen of Île St-Jean cleared land, established orchards and grew crops for exports. This was a fledgling, but nevertheless promising, agricultural and fishing society. Moreover, the Acadians seemed to coexist well with the native Mi'kmaq who had come before them.

Honourable senators, the Canadian horse was undoubtedly part of this early Acadian society. The first animals probably arrived in the 1920s from Quebec by way of Louisbourg. An archeological investigation of the 18th century settlement of Jean Pierre de Roma has uncovered artifacts from this period, including a riding spur.

Horses were also enumerated in early census reports. In the wake of the conquest, thousands of Canadians were forcefully expelled from what was then British North America, including the few hundred families who had made Île St-Jean their home. The Acadian expulsion was not entirely successful. A handful of Island Acadian families managed to escape Lord Rollo's expeditionary forces. They ran and hid in the forest where they eluded their new rulers until time and more tolerance permitted greater visibility. Not only did the Acadians flee into the forest, but their horses did as well.

Scottish settler John MacGregor, writing in the 1820s, relates a haunting story of a herd of horses that roamed the eastern part of the Island. Discovered when the English arrived after the expulsion, these horses were "running in a wild state." These horses had been exposed to the bitter winter weather and had survived against all odds. There is no question that the most mythical creature MacGregor wrote about was the Canadian horse. To the early settlers, this animal became known as the wilderness horse, tough of spirit, with sound feet and a small appetite.

While I cannot say for certain, I suspect the descendants of this animal can still be found in my province, although generational cross-breeding has made it difficult to pick them out.

Honourable senators, Bill S-22 proposes to recognize the Canadian horse as the national horse of Canada. I enthusiastically support this legislation and suggest that we seize this opportunity to enshrine yet another national symbol, one that will have meaning to Canadians in many provinces and regions and one that speaks so eloquently to the early developments of our country.

Hon. Joyce Fairbairn: Honourable senators, I wish to add my voice to this debate. I have not had an opportunity in the past because of other commitments in and around this chamber, but from the moment that Senator Murray came forward with this piece of legislation, I have probably been its strongest supporter.

As Senator Hubley has described, the Canadian horse has a very special place in our history. One of the remarkable things about it is that it is a very Canadian horse. It has the qualities that we like to ascribe to our own people; strength, determination and steadiness. The Canadian horse may not be the most beautiful horse, but it is a handsome and attractive symbol of our country.

People in the southern part of my province are particularly familiar with the presence of this magnificent and trusted animal. The Canadian horse has a place of honour at Spruce Meadows in the equestrian events that our Speaker and myself often have the privilege of attending. One may see the horse pulling exquisite antique carriages that have been cared for and preserved by individuals and families in southern Alberta. A pair of Canadian horses proudly pulls these vehicles in wonderful parades that towns and cities hold in my province throughout the summer season.

Canadian horses are my friends. I have had the privilege of riding with and on the Canadian horse. At a time when people are always looking for reasons to pull things apart, it is good to have symbols that bring us together. This trusted animal is respected and admired across this country.

I am enormously proud to support this bill, and I know that people throughout Canada will think that this is a fine thing we are doing. I thank Senator Murray for pushing ahead with it.

Hon. Nicholas W. Taylor: Honourable senators, I should like to ask a question of Senator Hubley, although Senator Fairbairn just spoke.

Senator Fairbairn and I are both from southern Alberta. Although she loves horses, I am not so sure that I do. I spent many a time on the seat of my pants trying to ride one, and did not like it. I would fall off when four miles from home and the horse would run about 20 feet in front of me all the way home. I could never catch them, not even when it was 20 degrees below zero.

Perhaps Senator Hubley could explain to me why the horse from Newfoundland or Sable Island did not get the title of Canadian horse?

The Hon. the Speaker: We are on Senator Fairbairn's time and this is properly a question to Senator Fairbairn. We would need leave to go to Senator Hubley. Senator Fairbairn, do you wish to respond to that question?

Senator Fairbairn: Honourable senators, I am sure that Senator Hubley could give Senator Taylor a longer answer than I will. These questions were raised at the committee. I point out, however, without taking anything away from the animals in Newfoundland and Sable Island, that the animals in Newfoundland are referred to as "ponies" and this is a horse.

• (1500)

There is a difference.

The Hon. the Speaker: Is the house ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

THIRD READING

The Hon. the Speaker: When shall this bill be read the third time?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): With leave, now, honourable senators.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

STUDY ON ECONOMIC DEVELOPMENT OF NATIONAL PARKS IN NORTH

REPORT OF ABORIGINAL PEOPLES COMMITTEE

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Aboriginal Peoples entitled: *Northern Parks — A New Way*, tabled in the Senate on September 27, 2001.—(Honourable Senator Chalifoux).

Hon. Ione Christensen: Honourable senators, since tabling this report in the house, we have delayed speaking to it pending a meeting with the Minister of Heritage to formally present her with the report.

As you will remember, the report was undertaken at the request of that department, which wanted an independent assessment on land claims agreements between First Nations, the Inuit, as they applied to the economic opportunities in national parks.

On Tuesday last, Senator Chalifoux and I had the pleasure of presenting our report, "Northern Parks — A New Way," to Minister Copps, who was very pleased with the report. Her department is working actively on the recommendations.

Our fact-finding committee of three senators travelled to all three territories. We met with 37 groups and developed eight recommendations for action. The minister has asked that our committee forward a request to the Department of Human Resources with a copy of our report, recommending the development of an education program in the North to train persons in the field of tourism. Certainly, ecotourism is growing as a northern industry, and such assistance would promote that industry. There are many opportunities, but the training for tour development and marketing skills, along with customer service, would help meet the industry standards. Such training assistance would open up many local economic opportunities.

Minister Copps has also suggested that a three-territorial conference be held between First Nations, the Inuit and Parks Canada to address the question posed in recommendation number 3 of co-management and cooperative management. The Senate's Aboriginal Committee will continue to follow the progress of the recommendations that we have made through the subcommittee.

The Hon. the Speaker: If no other honourable senator wishes to speak to the fourth report of the Standing Senate Committee on Aboriginal Peoples, the matter is considered debated.

STUDY ON ROLE OF GOVERNMENT IN FINANCING DEFERRED MAINTENANCE COSTS IN POST-SECONDARY INSTITUTIONS

REPORT OF NATIONAL FINANCE COMMITTEE—
DEBATE ADJOURNED

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on National Finance (study on the role of the government in the financing of deferred maintenance costs in Canada's post-secondary institutions), tabled in the Senate on October 30, 2001.—(*Honourable Senator Murray, P.C.*)

Hon. Wilfred P. Moore: Honourable senators, I am pleased to rise before you today to speak on a topic that has come to mean a great deal to me, and for which I have worked diligently with Senate colleagues over the past few weeks and months in an effort to bring this topic to the attention of parliamentarians and the general public. I am referring to the topic of accumulated deferred maintenance in Canadian universities.

Recently, the Standing Senate Committee on National Finance, of which I was a member, completed its study of this growing problem and produced the report entitled "The Role of the Government in the Financing of Deferred Maintenance Costs in Canada's Post-Secondary Institutions." I wish to speak to that report today.

At the outset, I wish to express my sincere appreciation for our committee chairman, Senator Lowell Murray, and the fair and thorough manner in which he led that study. I applaud the keen participation of my committee colleagues.

I wish to speak to the recommendations that have been born of this report, for I feel they are well deserving of our attention. They are the product of the learned opinion of the committee, the expertise of several academics and professionals in the field, and the students themselves who have been affected directly by the problem of accumulated deferred maintenance.

Although the meaning of this term, "accumulated deferred maintenance," or ADM, has become all too clear for the members of the National Finance Committee, I should like to clarify its significance for the honourable senators present in the chamber today who may not hold such an understanding. The term refers to the backlog of unfunded major maintenance projects that have been deferred by our universities to future budgets. It resulted from either an accumulation of neglected routine maintenance items which evolved into more serious concerns, or from a failure to carry out major repair or restoration projects on facilities that have reached the end of their life cycle or have become obsolete.

It is believed that this problem has been snowballing since the energy crisis of the early to mid-1970s, when federal and provincial government budgets were tightened, thus hampering any hope of nipping this budding problem.

Following nearly a quarter century of deferral, the Canadian Association of University Business Officers, CAUBO, now tells us that the problem of ADM has accumulated in the year 2000 to the amount of \$3.6 billion. As staggering as this figure is in and of itself, they warn us that this number is a conservative one. I do not want to presume to guess what the current figure is, but the fact that it may exceed \$3.6 billion is alarming.

Nor do I want to presume that we should ask the federal government to write a cheque to address this problem. Even with the unanticipated change in budget priorities that have arisen since the horrible terrorist attacks on the United States of America on September 11, 2001, and the public's justifiable concern for their safety, I would not have expected our government to eliminate this problem before September 11 with a simple cash infusion.

Therefore, in addition to examining the more obvious immediate cash solutions, I believe it is important to examine other more creative proposals, as my colleagues and I have done over the past few weeks before the Standing Senate Committee on National Finance.

Honourable senators, we heard a number of proposals that address the growing problem of accumulated deferred maintenance with more than a Band-aid solution. The first of these proposals was the product of the very same organization that I just mentioned, CAUBO. In a joint presentation with the Association of Universities and Colleges of Canada, CAUBO suggested employing a formula similar to that of the Canada Infrastructure Program, whereby the three parties proposing to deal with this problem of accumulated deferred maintenance — namely, the federal government, the provincial governments and the universities themselves — would contribute to a one-time cash fund of \$3 billion directed at eliminating this problem. The AUCC and CAUBO suggest that each level of government contribute 40 per cent, or \$1.2 billion each, while the universities would contribute the remaining 20 per cent, or \$600 million.

Given the already heavy burden placed on the wallets of students attending university today, these organizations felt that any further financial pressures by tuition increases would only exacerbate that burden, a position with which I believe we can all sympathize.

A second proposal calls for an extension to that existing government program, the Canada Infrastructure Program. Currently, this program provides \$2.65 billion of funding over the next six fiscal years for municipal infrastructure and highway renewal.

• (1510)

Under this program, it is proposed that the federal government would attach additional monies to that funding. These additional monies would be used to cover the repair of damage arising from the years of ADM. Failing that, a new program could be established that would have universities take on the role that municipalities now play under the Canada Infrastructure Program. Thus, universities would be involved in the allocation of these resources just as municipalities identify and target community infrastructure programs under the current Canada Infrastructure Program.

A third proposal put forward by the Canadian Alliance of Student Associations, the CASA, suggests sizeable funding by the federal government. However, CASA suggested that this proposed cash infusion would be needed annually in order to keep the problem at bay or to keep it from resurfacing in another 25 years.

To begin to address the problem of ADM, CASA suggests that the federal government create a \$1.2-billion fund immediately, in addition to setting aside \$1 billion with the provinces to cover future post-secondary educational costs. Although the details of that proposal were not fully explored by CASA, the intent behind it is certainly consistent with the theme of other proposals we heard.

To ensure a fair and just distribution of funds under any of the aforementioned proposals across regions, provinces and

post-secondary institutions, our National Finance Committee suggests the employment of a formula that provides for the distribution of funds to cover accumulated deferred maintenance on a full-time equivalent student basis. I believe that the employment of this formula would ensure that any funds hereunder would be properly and equitably distributed across the country. I feel this is a very important point because this problem, although felt from coast to coast, does not necessarily intensify where population is concentrated. Rather, it intensifies where the number of students using university facilities is proportionately larger.

Moreover, employing a student per capita formula based on provincial population is not an accurate reflection of the problem of ADM facing post-secondary institutions across our country. This is highlighted in the discrepancy found between Central Canadian post-secondary institutions and those in the Atlantic provinces, where the latter have a much lower per capita provincial population and a much higher student per population ratio than the former.

Honourable senators, perhaps the most innovative proposal to come out of these discussions was a plan whereby citizens, including alumni of course, would receive a tax incentive to donate money to their university of choice. Like political donations of today, it is suggested that citizens would receive a tax credit for donations they make to any Canadian university, provided that any money raised under this proposal would be placed in a fund specifically dedicated to ADM application. Although the ability of universities alone to raise the \$3.6 billion needed to address the immediate concerns presented by ADM is questionable, I believe it would be most constructive for us to create an incentive to attack that problem.

Another proposal that is a product of the committee's study is a previous solution that is now recycled to address this ADM problem. The Canada Mortgage and Housing Corporation proposal suggests that universities be permitted to renegotiate existing mortgages held by CMHC, which were entered into to fund the construction of student residences, as a means of funding ADM work today. To carry through with this proposal, I suggest the leadership and involvement of our federal government would be needed, as indeed it will in every other proposal which I have touched on here today. I say this because I am familiar with the costs passed on to students in the last few years. The last thing a university student needs is the stress of possible additional debt as he or she works toward entering the workforce.

Furthermore, honourable senators, the continuing deteriorating state of our universities is a poor expression and reflection of our true educational capabilities. Frankly, it masks the potential and talent that is concealed within these crumbling walls. I believe it is time to address this problem so that we may direct our resources to the future well-being of our students and not to correcting shortcomings of the past.

A final innovative proposal would have a waiver of capital gains tax upon the disposition of shares listed on stock exchanges and donated to a Canadian university.

Honourable senators, I think this matter is of a size, magnitude and scope that makes it truly national. I hope that other senators will see fit to comment on this report.

Hon. Nicholas W. Taylor: Honourable senators, I have a question on a very good report, for which I compliment the senator. Did the committee look at the American idea of public capital? In the U.S., if a loan is made to an educational institution, the interest received from it is tax free. This allows institutions to borrow at a rate sometimes 2 to 4 percentage points lower than the market rate. Consequently, the debt load is not as heavy.

Senator Moore: Honourable senators, that idea was not considered by the committee. It was touched on in a roundabout way in a suggestion by Senator Meighen with respect to private foundations in Canada. The idea was that they might make donations and the interest would be covered. It is a good idea and one certainly worth exploring.

[Translation]

Hon. Roch Bolduc: Honourable senators, I will keep my remarks on the deferred maintenance costs for university buildings in Canada brief because I have little to add to the present report or to the speech our colleague has just given.

We have seen that maintenance of university buildings in Canada has been neglected and that it is relatively urgent to set aside funds to address the problem. For all sorts of reasons, provincial and university administrations have not made this aspect of academic life a priority in their budgets. Apparently, there is more visibility in cutting the ribbon to open a new building than investing in repairs to an existing one.

Private donors also apparently prefer to see their name associated with a new building or a category of scholarship. Whatever the reasons, the fact remains that provincial and particularly university administrators did not make this a priority. They preferred to hire more professors and support professionals, increase salaries or buy lab equipment, books or computers. Now they are in a tight spot.

As a federal parliamentarian, I do not wish to become involved in the management of our post-secondary education system, which is primarily a provincial responsibility, even if the federal government does contribute some funding.

However, it seems to me that, if there are genuinely urgent situations, a few solutions were put forward in committee. I, for one, would be inclined to view university buildings as municipal infrastructures, since they are located in cities and have been built largely through public funding.

This is an existing program and I believe that in certain provinces, Quebec in particular, the funds are not exhausted.

On motion of Senator Banks, debate adjourned.

• (1520)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

COMMITTEE AUTHORIZED TO STUDY RENEWAL OF
BROADCASTING CONTRACT WITH CPAC

On the Order:

Resuming debate on the motion of the Honourable Senator Gauthier, seconded by the Honourable Senator Hubley:

That the Standing Committee on Internal Economy, Budgets and Administration be authorized to examine and report upon the renewal of the television broadcasting agreement between the Senate and CPAC (the Cable Public Affairs Channel), so that it includes the subtitling of parliamentary debates authorized on television and the renewal of this agreement follows up on CPAC's commitments concerning services to the hearing impaired.

Hon. Eymard G. Corbin: Honourable senators, since I already expressed my views on the issue currently before us during a previous sitting of the Senate, I will not repeat what I said. I then rose, as I am doing today, to support with all my energy the request made by Senator Gauthier in this motion.

This is an important issue that involves national unity considerations and compliance with the Official Languages Act and certain constitutional provisions. It goes without saying that this issue depends partly on certain technical innovations, but primarily on goodwill. It would be disappointing if we were once again forced to beg to obtain this type of services.

It really saddens me when I see official language minority groups being forced to go to the Supreme Court to get what they are legally entitled to under the Canadian Constitution and laws.

The time for indolence is over. We should be taking action. We can talk about this issue until we are blue in the face, but we will not solve it. This issue must be reviewed by the Standing Committee on Internal Economy, Budgets and Administration, as requested and desired by Senator Gauthier.

I hope we will give this issue all the importance that it deserves. A few weeks ago, Senator Kroft reported on the state of negotiations with CPAC regarding closed-captioning and access for the hearing impaired. I believe that he is well intentioned and will carry on in that direction, and I encourage him to do so.

I would not want this issue to be doomed to indifference, as is sometimes the case with some of Senator Gauthier's motions, including at the Standing Committee on Rules, Procedures and the Rights of Parliament, where some of the issues that he has been raising for a long time are always and systematically put on the back burner.

This is no way to treat the requests of senators and to react to these requests when they are well justified and, moreover, when they enjoy the support of the Canadian legislation and Constitution. I hope, honourable senators, that the Senate will adopt this motion at the earliest opportunity.

Hon. Laurier L. LaPierre: Honourable senators, I wish to express my support for Senator Corbin's comments and Senator Gauthier's motion.

[English]

The time has come to resolve this matter. The calendar suggests that as of September 1, 2002, Canadians all across the country have the fundamental, inalienable right to hear the comments and debates of their elected officials in the House of Commons and also those who constitute the second house in Parliament, to understand what is going on, to reflect upon them and thereby to participate in the democratic process.

[Translation]

Honourable senators, it strikes me as obvious that the time has finally come to ponder what Senator Gauthier said yesterday, that not a word was said about the Senate's broadcasting needs. His words were as follows:

We know that the agreement with CPAC expired last year. Negotiations are underway, and we have less than a year to make important decisions and to send the message to Canadians that Parliament has two chambers, the House of Commons and the Senate.

The Senate is also involved in the debates and must be a party to the decisions taken in this Parliament.

I support Senator Corbin's request that we agree to this motion as soon as possible.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

[English]

RECOGNITION AND COMMEMORATION OF ARMENIAN GENOCIDE

MOTION—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Maheu, seconded by the Honourable Senator Setlakwe:

That this House:

(a) Calls upon the Government of Canada to recognize the genocide of the Armenians and to

condemn any attempt to deny or distort a historical truth as being anything less than genocide, a crime against humanity.

(b) Designates April 24th of every year hereafter throughout Canada as a day of remembrance of the 1.5 million Armenians who fell victim to the first genocide of the twentieth century.—(*Honourable Senator Finnerty*).

Hon. Isobel Finnerty: Honourable senators, I speak today in support of the motion of my colleague Senator Maheu regarding the recognition of the Armenian genocide. I am delighted there are others in this chamber who are prepared to join this modest effort to promote historical truths.

The facts of history in this matter are well known. This story, now almost 100 years old, has, however, always been in the nature of a taboo. We are not supposed to talk about it.

Citizens of Turkey who have dared to discuss it over the years are strongly encouraged to forget about it. The Government of Turkey is in a perpetual state of denial about it. This is state policy. The events that pitted the Turkish forces against Armenians in 1915 resulted in catastrophic acts of genocide. The facts are well known. Some Turkish scholars admit the facts. These scholars now declare that it is factually correct to say that unchecked Turkish nationalism caused the death of more than 600,000 Armenians in fewer than 10 months.

Rewriting history has often been a state policy. Many totalitarian governments have promoted half-truths and lies to prop up the sagging popularity or to fortify national myths that serve to consolidate internal support for the government of the day.

In the old Soviet Union, the spinners of propaganda were given free reign to write history to suit current political needs, to keep citizens from asking questions that would expose atrocities and human rights violations. The same patterns occurred during the lengthy regime of apartheid in South Africa. Three generations of government in North Korea have been enormously guilty of such practices. Communist China is another government that is notoriously active in twisting the truth.

The common thread among these and other like-minded regimes is that they are totalitarian in fact and in spirit. It is perhaps surprising that the ongoing distortions of history have been perpetuated by a succession of governments in Turkey that are democratic. In the atmosphere of democracy, it has not been possible to change state policy and have the real story about relations between Turks and Armenians officially acknowledged.

• (1530)

Frank and open discussion of one's own history is taken for granted to be an essential component of life in a democracy. Prominent members of the academic community in Turkey have been discussing openly the facts of Armenian genocide since 1999, 84 years after it happened.

No doubt it is time for participants on Canadian delegations who interact with their Turkish counterparts to freely compliment those citizens of Turkey who are forthright in removing some of the cobwebs of history that cloud the understanding of a most unpleasant episode in ethnic politics. Progress has a great deal to do with the changing patterns of behaviour. We should not shrink from playing a small part in promoting progress.

I hope that Turkish academics will be successful in encouraging new generations of Turkish students to embrace the truth about their nation's past. In Germany, the truth about its Nazi past is part of the school curriculum. In Eastern Europe, the atrocities of a totalitarian past are continuing to be revealed to anyone who wishes to listen. It is only when we let the light shine in that we can truly challenge each other to create a better world for us all.

I compliment Senator Maheu and other senators who seek to let the light shine in.

On motion of Senator Cools, debate adjourned.

BUSINESS OF THE SENATE

Hon. Anne C. Cools: Honourable senators, I stepped out for a few moments. When I came back, Senator Finnerty was speaking, so I assumed she was speaking on Item No. 44 on the Order Paper. I took the adjournment on that motion. It seems to me that after No. 44 is No. 8. What happened to that item?

The Hon. the Speaker: That item was stood. Do you wish to speak to it?

Senator Cools: It was stood even though it was 15 days?

The Hon. the Speaker: Do you wish to speak to it, Senator Cools?

Senator Cools: No. I thought there had to be activity on it today; otherwise it would fall off the Order Paper. I am happy to take the adjournment, since Senator Prud'homme is not here and obviously has not acted on it. I do not want it to fall off the Order Paper, so I am happy to take the adjournment.

The Hon. the Speaker: It is a substantive motion, and the honourable senator has a right of reply. If she speaks to it, she would be the last speaker.

I am sorry. I misunderstood. There is no right of reply, so the honourable senator cannot speak again.

Senator Cools: I have not replied yet.

The Hon. the Speaker: I am sorry. Senator Cools does have a right of reply.

Senator Cools: That is what I am saying.

The Hon. the Speaker: I must advise honourable senators that if the Honourable Senator Cools speaks now, it will have the effect of closing debate on this matter.

Senator Cools: I move the adjournment. That is what I was trying to do.

The Hon. the Speaker: Please give me a moment.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, could we get an indication as to where in the rules this right of reply is referred?

The Hon. the Speaker: The rules provide that on a substantive motion — for instance, a bill at second reading — the mover of the motion has a right of reply. There are also other matters that we deal with in the Senate that are considered substantive matters — motions, for instance. If I am given a moment, I will find the rule and refer honourable senators to it.

Senator Kinsella: Rule 35.

The Hon. the Speaker: I will read the rule to the house, in that the question has come up. The rule I will be reading is rule 35, as Senator Kinsella noted, which is under the section of our rules dealing with process of debate, documents and privilege. It states:

A Senator who has moved the second reading of a bill or made a substantive motion or an inquiry shall have the right of final reply.

It is our practice, because that is the final intervention, to announce such so that if other senators present wish to speak, or if a senator knows another wishes to speak, he or she can do so or the debate can be adjourned.

I am not sure — and I will ask for some help on this — whether the mover, in exercising the right of reply, can adjourn the motion. I do not see why not. In other words, if a senator starts to speak in reply, that senator may continue and finish those remarks — there is a time limit — at the next sitting. I do not see why you cannot do that.

Senator Kinsella: Honourable senators, I think His Honour is absolutely correct in his interpretation of rules 35 and 36. However, the *conditio sine qua non* for rule 35 to be exercised by the given senator is that the given senator must be present in the chamber. It cannot be presumed to be a right that is somehow inherent. It is circumscribed to that extent. It must be acted upon when the item is called.

The Hon. the Speaker: That is correct, but this is Senator Cools' motion. It stands in Senator Prud'homme's name, but our practice is that when another senator wishes to speak, they may do so.

Perhaps I am on weak ground. I would ask for interventions as a matter of order. If the mover wishes to speak, then in this case she may do so.

Honourable senators, I will take all the help I can get.

Senator Kinsella: Honourable senators, if the honourable senator in whose name the motion was made wants to exercise the right that is provided for by rule 35, he or she must be in the chamber when the item is called.

In the matter before us, honourable senators, the item not only was called; it was disposed of. The proceedings of the house this afternoon have gone far beyond this. It would require unanimous consent, it seems to me, to refer back to that item. We should be perfectly clear that senators must be present if they are to exercise the right provided for by rule 35.

Hon. Eymard G. Corbin: On a point of information, I had to take a phone call and was absent when this matter arose. What item are we on, please?

The Hon. the Speaker: We are on Item No. 8, which is a very important question, as it turns out.

Senator Kinsella: We are on Item No. 25 under Inquiries.

The Hon. the Speaker: It is important because we had moved on to Order Paper Item No. 24. Senator Finnerty spoke to Item No. 44, and it was adjourned by Senator Cools. Item No. 8 was called by the Table, and no one spoke. There was a very long pause. It occurred that no one wished to stay "stand." The effect of doing that is that the matter falls off the Order Paper.

• (1540)

It can be reinstated through procedure. It is not lost but it requires another step. Rather than sit here a long time in silence it occurred to me that, as your presiding officer, I would say "stand," so I did. Then we moved on to the next item under Inquiries. The importance of that is — Senator Kinsella is quite right — that to return to an earlier part of the Order Paper, we would need unanimous consent. That was not in my mind when I made my comments in terms of Senator Cools' right of reply, and her adjourning to continue debate on reply, that she might commence now within the time frame that she has.

I should now like to ask whether the Honourable Senator Cools would like leave to do that?

Senator Cools: Honourable senators, I think it is clear that I asked for leave. When we say to His Honour that we had moved on, we must note that we are on to the very next item. It had been my clear understanding that Senator Prud'homme had indicated he was planning to speak today; therefore I was expecting him to rise. It suddenly occurred to me that the honourable senator was not here and I did not want the matter to fall off the Order Paper. That is why I scrambled to my feet as quickly as I could. The delay was only a few seconds. If it is a problem, I offer my apologies, but I thought that the chamber would be generous with me.

The Hon. the Speaker: Senator Cools has requested leave to revert to Order No. 8, Inquiries. Is leave granted, honourable senators?

Some Hon. Senators: Agreed.

Senator Kinsella: Honourable senators, this side would be happy to give leave, provided that it is for a substantive contribution to the debate. If it is for the purpose of moving the adjournment of the debate, honourable senators, the point is that it defeats the rule that we set in place some time ago of having items not stay forever on the Order Paper. We allow them to stay for 15 sitting days. As someone mentioned a few moments ago, it keeps the Order Paper manageable, which was the objective of bringing in that rule.

However, honourable senators, all is not lost because any honourable senator can reintroduce the inquiry. I do not believe we would be overly restrictive. If there were a substantive contribution to be made, certainly we would want to hear that.

The Hon. the Speaker: Do any other honourable senators wish to comment?

Hon. Nicholas W. Taylor: Honourable senators, I think Senator Kinsella introduces an entirely new concept, and that is that we may or may not give unanimous consent depending on what is to follow. That cannot be done. We do not know what will follow. The point is, we either revert or we do not. We cannot say we will revert if we have a five-minute speech, or we will revert if no speech is given, or we will revert if new business is mentioned. There can be no requirements. Either we revert or we do not revert.

Hon. Tommy Banks: Honourable senators, have we reverted?

The Hon. the Speaker: Honourable senators, just so we are clear, what we are talking about, as a matter of order, is that Senator Cools has, through the Chair, asked for leave to revert to Item No. 8 so that she may speak to it. She has indicated that if she has the floor, she will, in effect, speak only to adjourn the debate.

I am now hearing honourable senators on the issue of whether or not leave should be granted. Senator Kinsella has indicated that he would agree to granting leave if a speech were made today by Senator Cools. Senator Taylor has indicated that he does not think that that is in order, that is, either leave is given to revert or it is not given, and there can be no condition attached.

Are there any other comments on the matter of whether leave should be granted?

Senator Banks: Honourable senators, would Senator Kinsella consider a reversion to Order No. 8 if another senator were to make a contribution to the debate on the motion?

The Hon. the Speaker: Honourable senators, are there any other interventions?

Senator Corbin: Honourable senators, I am still not sure I understand the process. With all the respect I can muster, of course, I thought His Honour had said that there was not, in this case, a right to reply. Senator Cools is the author of the inquiry, and she does not have a right of reply and therefore she cannot stand up and reply.

Senator Cools: I have the right of reply.

Senator Corbin: That is what is not clear in my mind, Senator Cools, and I would like clarification.

The Hon. the Speaker: Honourable senators, I should clarify that now. I did say that but I was wrong. Upon reading the rules, it is clear from rule 35 and rule 36 that there is a right of reply on an inquiry, and so Senator Cools does have a right of reply.

Hon. Laurier L. LaPierre: Honourable senators, it is my fault again. It seems that I inadvertently caught the attention of Senator Cools because I wanted to move the adjournment of the debate on the Armenian question in my name. She was then distracted, and because she is an honourable senator, distraction is not permitted. Therefore, I should like to say that it is imperative that we accept this inquiry for the sole and simple reason that we have not liked the black people for a long time. We may brag about having a railroad, and Mr. Watson and I did a magnificent "Heritage Minute" about it. Nevertheless, in many ways over the long run of our history people who are black in colour have suffered great discrimination in this country. Consequently, we want to be able to celebrate their astonishing contribution to Canada one day. Many of them left Nova Scotia to go to an African country because they were having such a terrible time there. I would like to move that we agree to the motion and proceed with the matter.

Senator Cools: Honourable senators, I would submit that our honourable colleague, Senator LaPierre, has made the substantive intervention that would undoubtedly satisfy Senator Kinsella. Having said that, I should like to move the adjournment of the debate. I can promise Senator Kinsella that I will give him a most substantive intervention at the appropriate moment because Senator Kinsella knows that I love to do that sort of thing.

The Hon. the Speaker: Honourable senators, on this last suggestion that we have reverted, we have not reverted. For clarification, we are discussing the question of leave, as to whether or not leave will be given to revert. I would also say that I believe the Senate can give leave on condition. We have a clear ruling that leave can be given, for instance, to extend time for a specific amount of time. I had occasion to review Speaker Molgat's ruling on that recently. I believe that is established. Senator Kinsella is in order then, when he says that he will give leave if the honourable senator who requests leave speaks today.

Does the Honourable Senator Cools intend to speak today?

Senator Cools: Honourable senators, I am not convinced that the situation would be much assisted by speaking today for a

substantial period of time. I have been here for many years and I understand well that at 4:50 on a Thursday afternoon most senators' minds are directed towards catching their planes and getting out of Ottawa. I thought that by offering not to speak today I was assisting and supporting colleagues who have to travel extremely long distances to all parts of this country. I thought that I was being helpful, sensitive and collaborative.

• (1550)

Remembrance Day is coming up and I am certain that senators are eager and ready to go home so that they can play their dutiful parts in the upcoming ceremonies.

Honourable senators, I did not realize that it was a large issue and that I was creating such a momentous incident. Having said that, I am hopeful that it has been sufficient so that I may simply adjourn the debate and senators may continue with the business at hand.

The Hon. the Speaker: I am sorry, Senator Cools, but we are not on the item. We have passed the item, and the issue is whether we revert to it. I assume that you have asked for leave to revert for the purpose that I described earlier. That has been agreed to, if you speak today. Leave has been asked by Senator Banks to speak to it today. If you say no, then I would see if leave is granted to revert for that purpose. However, I first need to know whether you wish to speak to it today.

Senator Cools: I said before that I have been here for a long time and I am very aware that senators have plane schedules. If it is your pleasure, I will ask for leave again. The situation is quite clear.

The Hon. the Speaker: Honourable senators, is leave granted to revert to Item No. 8?

Hon. Senators: Agreed.

BLACK HISTORY MONTH

PRESENTATION TO CANADIAN BAR
ASSOCIATION—INQUIRY—DEBATE ADJOURNED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cools calling the attention of the Senate to the celebration of Black History Month in Canada, and the Canadian Bar Association of Ontario dinner in Toronto on February 1, 2001, at which she, as the keynote speaker, spoke to the topic *A Room With a View: A Black Senator's View of the Canadian Senate*.—(Honourable Senator Prud'homme, P.C.).

Hon. Anne C. Cools: Honourable senators, I had not been taking this discussion too seriously at first, but perhaps I should.

The Hon. the Speaker: Just to be clear, if Senator Cools speaks now the debate on the inquiry will then be closed. Other honourable senators wishing to speak to the item should speak now.

Senator Cools: My understanding, Your Honour, is that I have 15 minutes to speak and I can use the time as I see fit. Has that rule suddenly been altered in the last five minutes?

The Hon. the Speaker: In answer, Senator Cools, no rules have been altered. That is what I indicated earlier, and you have 15 minutes.

Senator Cools: Honourable senators, the issue before us is my inquiry calling the attention of the Senate of Canada to the celebration of Black History Month in Canada, and to the Canadian Bar Association of Ontario's dinner in Toronto, February 1, 2001. As the keynote speaker at that dinner, I addressed the topic, "A Room with a View: A Black Senator's View of the Canadian Senate."

It is my intention to speak in a more fulsome and wholesome way on the particular subject. I have done a fair amount of research to answer some of the concerns. There was a particular concern that was raised by a senator, and it is my intention to speak in a complete and sufficient manner.

The Honourable Senator Prud'homme indicated to me that he would be here and prepared to speak to this item today. Senator Prud'homme, obviously, is a man of many commitments, substantial tasks and duties, and so he is unable to be here. I felt that it was only proper and appropriate to proceed in the right way. I thank Senator LaPierre for pointing that out when he distracted me for that brief moment.

Honourable senators, my intention to speak in a more fulsome way to call the attention of the Senate to my descendants — the people we called, in the British Caribbean, the free coloured people. They were people who were able to make their way by manumission, or by some form of private emancipation to become, in those days, "free men and women."

It is my intention to speak more fully on that subject, and to continue to draw attention to my speech that I presented in Toronto earlier this year.

On motion of Senator Cools, debate adjourned.

ENDING CYCLE OF VIOLENCE IN MIDDLE EAST

INQUIRY—DEBATE ADJOURNED

Hon. Pierre De Bané rose pursuant to notice of November 1, 2001:

That he will call the attention of the Senate to his recommendation for ending the atrocious cycle of violence raging now in the Middle East.

He said: Honourable senators, the Secretary of the British Foreign Office, Mr. Jack Straw, recently observed:

It used to be possible to ignore distant and misgoverned parts of the world. That is no longer so. In the world without borders, chaos is now our neighbour whether it is in Africa, in Asia or in Afghanistan.

For many months now, daily images of violence, and the attendant procession of dead and wounded, have constantly put before our eyes the suffering of the people living in Israel and the Palestinian Territories. Who could suggest that the sufferings of the mothers, fathers, children, husbands, wives and families who have lost those dear to them, their own flesh and blood, are not the same on both sides of the conflict?

It is precisely for that reason that the situation calls for Canada and other well-disposed countries to offer direct and effective assistance to put an end to the infernal cycle of violence. I want to suggest a concrete way in which we could show leadership and work actively towards the humanitarian objective. By doing so, we will be taking action to deal with the chaos in that part of the world which, whether we like it or not, is Canada's neighbour.

Born in Haifa, Palestine in 1938, to parents born in Egypt, with roots in Lebanon and Syria, I had the privilege of arriving, as a child, in Canada as it was emerging from World War II and generously opening its doors to so many people affected by the upheavals of the time. As a result, I had the opportunity to grow up in this welcoming, free and truly democratic country, where respect for differences is an integral part of the natural culture of Canadians. I simply cannot overstate Canada's generosity toward the people who immigrate here, as it has been given to me to be elected member of Parliament, to work as a member of the government and to be appointed senator.

The profound gratitude I conceived as a result led me to put myself at the service of the Canadian community as a whole, with the dedication of one who has received a great deal indeed. It is precisely for this reason that I cannot now shirk my duty of solidarity and solicitude toward all the people in Israel and the Palestinian Territories who, for more than 50 years, have been ravaged by a succession of wars.

• (1600)

For this reason, I wish to share my thoughts about this intolerable conflict and to propose the creation of a multinational security force. This would be in the tradition of Canada as a peacekeeping nation and would establish the pre-conditions for enduring peace that were laid out in the Mitchell report of May 2001. Let me explain.

My comments stem from Canada's constant involvement in easing conflict and tension in the Middle East. In 1956, honourable senators will recall that in order to ensure Israel's withdrawal from Sinai and to pacify the zone between Israel and Egypt, it was our country that designed and proposed the brilliant initiative of Lester Pearson — who was awarded the Nobel Peace Prize for his efforts — to deploy a peacekeeping force that has subsequently become the model for other similar operations.

Again, since 1947, Canada has been one of the main financial contributors to UNRWA, the United Nations agency responsible for Palestinian refugees from the various Arab-Israeli wars. Canada also chairs the refugee task force established in the context of the Madrid Conference for the Middle East peace process.

As honourable senators can see, Canada has a long history of involvement in this region, where it has constantly played an important role in reducing tension and providing relief to various populations. More recently — last year, in fact — Prime Minister Jean Chrétien made an extensive tour of the countries of the Middle East, on which I accompanied him. Currently, our Minister of Foreign Affairs, John Manley, is visiting those same countries, demonstrating the importance our government attaches to the establishment of a climate of peace in that part of the world. Thus, I speak to senators today in the spirit of Canada's tradition of being peacemakers and humanitarians. It is in that spirit that I will make the proposal that is at the heart of my comments.

The Mitchell commission report on the situation in the territories and on the status of relations between the Israelis and Palestinians was published this past May. The commission was established by former President Clinton following a meeting convened by him on October 17, 2000, in Charm El-Cheikh, Egypt, between Israeli Prime Minister Ehud Barak and Chairman of the Palestinian Authority Yasser Arafat in an attempt to put an end to Israeli-Palestinian violence which had broken out on the West Bank and in Gaza and Israel a few weeks earlier.

Senator George Mitchell, former majority leader in the U.S. Senate, was appointed the chairman of the commission. Honourable senators will remember how Senator Mitchell was admired around the world for his remarkable performance in facilitating talks between Catholics and Protestants in Northern Ireland. His brilliant patience ultimately triumphed over the fierce resistance of the parties to the conflict in Northern Ireland and culminated in 1998 in the Good Friday Agreement, the cornerstone of the peace process between the protagonists in that centuries-old war.

Senator Mitchell would use this exceptional ability in dealing with complex situations of conflict to conduct the work which his commission would be responsible for doing in investigating and establishing the facts.

Working with Senator Mitchell were four other commission members, equally prestigious and experienced in international affairs: Mr. Suleyman Demirel, ninth President of the Republic of Turkey, who, in 1996, was also elected Chairman of the UN Conference on Habitat; Mr. Thorbjørn Jagland, former Norwegian Prime Minister and Minister of Foreign Affairs; Mr. Warren B. Rudman, who, in his capacity as senator, had previously chaired the U.S. Senate's Ethics Committee and, in 1998, was appointed by President Clinton as Chair of the Special Oversight Board for the Department of Defence Investigation of

Gulf War Chemical and Biological Incidents; and, lastly, Mr. Javier Solana, former Spanish Minister of Foreign Affairs, Secretary-General of NATO from 1995 to 1999 and, since 1999, Secretary-General of the European Union and its High Representative for Foreign Policy and Joint Security.

Thus, this high-level five-member commission conducted a fact-finding investigation. They met with and listened to Israeli and Palestinian representatives in Israel and the territories in an attempt to understand the causes of the violence afflicting those two peoples and, on April 30, submitted to President Bush a report prepared in a spirit of objectivity, reflecting the difficult realities of each of the parties and the gulf that every day further separates them as violent acts and confrontation continue.

While the report paints a dark picture of seven months of bloody confrontation, it also, and especially, contains a series of recommendations intended to restore prospects for peace between the Israeli and Palestinian peoples, a peace made necessary by their proximity and concomitant tragedy. The authorities of both parties, Israeli and Palestinian, accepted the entire report, thus confirming that its tone and analysis were accurate.

The first recommendation of the Mitchell commission report is that steps be taken to put an end to violence. The cessation of violence is considered a prerequisite to implementation of the other two series of recommendations, which are designed to rebuild confidence and, finally, to resume negotiations.

Among the measures designed to build confidence between the parties, the Mitchell commission flags the need for the Palestinian Authority to take effective action to suppress terrorism:

The PA should make clear through concrete action to Palestinians and Israelis alike that terrorism is reprehensible and unacceptable, and that the PA will make a 100 per cent effort to prevent terrorist operations and to punish perpetrators. This effort should include immediate steps to apprehend and incarcerate terrorists operating within the PA's jurisdiction.

At the same time, the commission points to the need for the Government of Israel to halt settlement activities in the territories and to give careful consideration to their impact:

The GOI should give careful consideration to whether settlements which are focal points of substantial friction are valuable bargaining chips for future negotiations or provocations likely to preclude the onset of productive talks.

The Mitchell commission stresses in its report that the resumption of negotiations between Israelis and Palestinians will depend on an end being put to violence and a rebuilding of confidence, but it also emphasizes that the resumption of negotiations must not be unreasonably deferred.

The three groups of recommendations are thus set out in a kind of temporal sequence: end violence, rebuild confidence and resume negotiations. I therefore return and draw honourable senators' attention to the first recommendation — to end violence — which is in fact the governing principle for all the other recommendations.

The Mitchell commission appears to assign responsibility for halting violence to the Government of Israel and the Palestinian Authority, considering that both should immediately take steps for this purpose:

The Government of Israel and the Palestinian Authority should reaffirm their commitment to existing agreements and undertakings and should immediately implement an unconditional cessation of violence.

It is crucially important to put an end to a situation that can only foster growing hatred on both sides, reinforcing each party's mistrust of the other all the more since each attributes to the other the endless mutual counterstrikes that have marked their populations' suffering. The Mitchell commission thus advocates resumption in security cooperation between the Israeli and Palestinian authorities:

Effective bilateral cooperation aimed at preventing violence will encourage the resumption of negotiations. We are particularly concerned that, absent effective, transparent security cooperation, terrorism and other acts of violence will continue and may be seen as officially sanctioned whether they are or not.

[Translation]

We have to admit, as we speak six months later, that neither party has been able to take any kind of definitive action as far as unconditional cessation of the violence and initiating of cooperation is concerned. As things stand at present, such a possibility is more distant than ever, even.

• (1610)

Each of the parties is under pressure by the more vocal elements of its population, which balk at any efforts to contain them unless there is some guarantee that the adversary will not take undue advantage of the situation. In this connection, the Mitchell report states as follows:

[English]

We acknowledge the PA's position that security cooperation presents a political difficulty absent a suitable political context; i.e., the relaxation of stringent Israeli security measures combined with ongoing fruitful negotiations. We also acknowledge the PA's fear that, with security cooperation in hand, the GOI may not be disposed to deal forthrightly with Palestinian political concerns.

The same report indicates:

The PA should renew cooperation with Israeli security agencies to ensure, to the maximum extent possible, that Palestinian workers employed within Israel are fully vetted and free of connections to organizations or individuals engaged in terrorism.

[Translation]

Those are the basic concerns of each of the parties.

Everyone is well aware of the legitimacy of Israel's ongoing concern over its security as a country and over the security of its people. Palestinians must understand that this is a vital issue for the Israelis.

The Hon. the Speaker: I regret to inform Senator De Bané that his 15 minutes have expired. Is he seeking leave to continue?

Senator De Bané: Yes, honourable senators.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I would ask Senator De Bané to tell us how much time he needs to conclude his speech.

Senator De Bané: Honourable senators, I am at the final part of my speech.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator De Bané: Thank you, honourable senators.

This security, however, should be designed in a way that it does not prevent the Palestinians from exercising their right to self-determination — recognized by the United Nations — in a State that is economically and politically viable, that is not an amalgam of Bantustans scattered over a fragmented land.

As you have understood, while they follow each other logically, the three parts to the recommendations of the Mitchell report are, in reality, inextricably intertwined. The authors acknowledge it themselves when they say, in response to the fears of the Palestinians, and I quote:

[English]

We believe that security cooperation cannot long be sustained if meaningful negotiations are unreasonably deferred, if security measures "on the ground" are seen as hostile, or if steps are taken that are perceived as provocative or as prejudicing the outcome of negotiations.

[Translation]

It is in this context that the Israelis and the Palestinians have been incapable of unconditionally putting an end to the violence. Each party faces intransigent and powerful political pressure. How, under the circumstances, could they implement the recommendations of the Mitchell report?

Conclusions must be drawn and the fact recognized that the active support of a third party, one that enjoys the trust of both parties, is vital to the achievement of the first stage contemplated by the Mitchell commission as a prerequisite to the achievement to the other two: the rebuilding of confidence and the resumption of negotiations between the Israelis and the Palestinians — “rebuild confidence, resume negotiations.”

Need it be pointed out? The very fact that confidence between the Israelis and the Palestinians must be rebuilt speaks of the extent of the dramatic effects of merciless confrontation with its pathetic suffering and rancour. So the gap is widening and each party is becoming deaf to the legitimate complaint of the other. This painful reality I have described is remarkably summarized by the Mitchell commission, whose report notes, and I quote:

[English]

Despite their long history and close proximity, some Israelis and Palestinians seem not to fully appreciate each other's problems and concerns. Some Israelis appear not to comprehend the humiliation and frustration that Palestinians must endure every day as a result of living with the continuing effects of occupation, sustained by the presence of Israeli military forces and settlements in their midst, or the determination of the Palestinians to achieve independence and genuine self-determination. Some Palestinians appear not to comprehend the extent to which terrorism creates fear among the Israeli people and undermines their belief in the possibility of coexistence.

[Translation]

No purpose is served by trying to blame one party or the other. What is really to blame are the fear and blind violence which obliterate each party's perception of the other, similar though they are in their suffering and wounded humanity, to the point where fear and violence engender nothing but self-perpetuating hatred, and reason is drowned out in the clash of arms of all sorts.

This indeed was the observation in the Mitchell commission report, and I quote:

[English]

Fear, hate, anger and frustration have risen on both sides. The greatest danger of all is that the culture of peace, nurtured over the previous decade, is being shattered. In its place there is a growing sense of futility and despair, and a growing resort to violence.

[Translation]

In the hell into which they thus find themselves plunged, neither the public nor the authorities governing them seem able to extricate themselves from the devastating inferno consuming them. Can we continue to stand idly by and watch their torment,

as though it did not concern us — at least as fellow human beings?

It is my profound belief that we cannot. We cannot allow ourselves to shirk the responsibility falling to us as Canadians and as a country, — a country which has always been in the vanguard internationally when it comes to peacekeeping and humanitarian assistance — we cannot avoid our ethical obligation and our obligation as a government to work towards encouraging an effective cessation of the violence in order to finally provide relief to the populations, who cannot take any more, and to allow the parties to progressively restore lost trust and resume negotiations, without which no lasting peace is possible.

That is why I am proposing that Canada take the initiative of creating a multinational security force to ensure the protection of populations, and observation of a real cease-fire and an equally real cessation of violence.

This force would be made up of contingents from Canada, the U.S., France and Great Britain, all of which maintain good relations with the State of Israel, as well as contingents from Egypt, the first Arab State to make peace with Israel, within the framework of the same treaty that sets out Palestinian independence. In truth, any other country that would be acceptable to both parties would be welcome. These countries certainly benefit from the trust of both Israeli and Palestinian authorities. As a result, the deployment of their troops in a security cordon would not likely encounter any opposition or resistance, or at least, none that would be insurmountable. Other countries, such as Germany and Japan, could also be included, as long as they are approved by both parties.

The multinational security force would be sub-divided into two kinds of forces. On the one hand, a force of Canadian, American, French and British observers would be positioned in different hot spots, whose mission would be to record any violations of the cease fire and of the cessation of violence, report them to authorities of both parties — Israeli and Palestinian — to allow a shared management of the situation in order to prevent any such violations from degenerating into armed conflicts or a new cycle of violence.

In the other force, troops from the armed forces of the five countries — Canada, the United States, France, Great Britain and Egypt — would be deployed in different Palestinian sectors to control Israeli and Palestinian populations living within these territories, by patrolling and using appropriate means to subdue the populations and deter potential offenders.

The operational and decisional independence of the multinational security force would not prevent taking joint action with the Israeli-Palestinian security committee, where required — action designed specifically to improve the security of these populations, which is no doubt the cornerstone of a broader process of rebuilding confidence between the parties and allowing them to resume negotiations.

• (1620)

Because beyond the vital protection of populations, this is also the essential motive and fundamental objective of my proposal to create a multinational security force.

Indeed, without the unconditional cessation of violence — which is the first recommendation of the Mitchell commission's report — none of the other recommendations on restoring mutual confidence and resuming negotiations can be implemented.

So far, this unconditional cessation of violence has been blocked — as we have seen and continue to see every day — by the inability of the parties to commit to it. The deployment of observers and of armed contingents from the multinational security force would first seek to achieve this unconditional cessation of violence, so as to finally create conditions that are conducive to the progressive restoration of confidence and to a negotiation process leading to sustainable peace, as mentioned in the Mitchell commission's report which — and it is important to stress it again — was accepted by the Government of Israel and by the Palestinian Authority.

As one can imagine, many objections could be raised regarding such a proposal. But let me use the words of British Prime Minister Tony Blair when he explained the military action currently going on in Afghanistan, during his meeting with the Arab press, in London, on October 18:

[English]

We took this action with very great reluctance; we took it because we had no option.

[Translation]

Regardless of the hesitation there may be about the difficulties of deploying the multinational security force, they must answer the ultimate question: do we have any other choice? The answer, irrevocably, is: no, we have no choice but to do so, if we want to avoid an uncontrollable explosion in the Middle East, which would inevitably have disastrous repercussions for all of us.

Acting on behalf of all of us, the multinational security force will be a sentinel ensuring the rebuilding of confidence and the Israel-Palestine peace process. Otherwise, the violence will escalate and will, without a doubt, come closer to home.

Hon. Marcel Prud'homme: Honourable senators, I will of course be taking part in this debate. I should like to ask Senator De Bané a question.

I have followed your speech carefully but the fundamental question is still being skirted around. It is, first and foremost, a United Nations responsibility, since they are the ones who

decided on November 29, 1947 that from then on there would be two States on Palestinian territory, one for the Jews and one for the Palestinians. This was facilitated by the diplomatic skills of Lester B. Pearson, then Deputy Minister of External Affairs, and was in response to reports by Justice Rand of the Supreme Court. Do you not feel that one of the solutions would be to go back to square one and say that neither Israel nor Palestine is to be consulted, but that those who created the present situation should assume responsibility? Do you not think that we should turn back to those who created this problem, that is the UN. They are the ones who, in 1947, decided to adopt the resolution on the creation of Palestine, with 33 votes for, 13 against, and 10 abstentions. At that time, it was the only humane solution. As long as we do not go right back to square one, we will be going round and round with committee after committee, taking one step forward and one step back.

I was impressed by Senator De Bané's speech, but there are some points I should like to respond to when I take part in the debate.

Is it not vital now to return to square one, November 29, 1947, and exclude those who currently will never agree? We ask those who created the events of today to take a stand. They should say: "We decided there would be two States, so there will be two States and now we can negotiate."

Senator De Bané: Honourable senators, I certainly understand Senator Prud'homme's position. Since the UN resolution in 1947, other events have occurred. The most important is the one in effect today, the Madrid accords, which established the procedure we would follow to try to resolve these conflicts. The two parties accepted the basic principles of this conference in Madrid. As you know, five task forces were set up, one of which Canada chairs. Today we have the Mitchell report, which both parties accept, fortunately. This is why my speech was an attempt more to find a way to implement the report, whose first prerequisite, before confidence building and resumption of negotiations, is an end to the violence. For this reason, I gave my speech based on the Mitchell report of six months ago.

[English]

Hon. Nicholas W. Taylor: Honourable senators, I have a very short question of the Honourable Senator De Bané. He suggests an interesting solution.

As the honourable senator knows, we now have a UN force, comprised mostly of Canadians, in the Golan Heights which is between Syria and Israel. Syria is sort of a de facto occupier of Lebanon. Does the honourable senator think that the people of that region would accept the idea of a force, enlarged to the extent that the honourable senator has been talking about, into the rest of the West Bank in view of the fact they have been unhappy with what is already there?

Senator De Bané: Honourable senators, I am trying to study the three main steps identified by the Mitchell report. The first is the cessation of violence. The second involves measures to rebuild confidence. The third is to resume negotiations. The first step has not been achieved. As long as it has not been achieved, we cannot move to the second step.

What I am suggesting is that countries which have the confidence of both parties — and I mentioned specifically Canada, the United States, Egypt, France, Great Britain — participate in a multinational force. I said if other countries such as Japan, Germany, South Africa or others are acceptable to both parties, then I see those multinational forces with two mandates: The first is to help both parties monitor the situation; the second is to station armed contingents of those forces in the occupied territories to help Chairman Arafat in bringing about a cessation of violence.

By so doing, I think we would help both parties to reach the second stage, which involves measures to rebuild confidence.

• (1630)

That is essentially my position. I can say with great satisfaction and happiness that when I discussed that matter with members of the Arab diplomatic corps in Ottawa, they were very much in support because they see that the situation is deteriorating every day. We must put an end to the violence. If we do not, we are essentially giving a veto to the extremists on both sides who do not want peace. We cannot allow the extremists on both sides to prevail.

On motion of Senator Finestone, debate adjourned.

[Translation]

THE SENATE

TIME ALLOTTED FOR TRIBUTES—
INQUIRY—DEBATE ADJOURNED

Hon. Jean Lapointe rose, pursuant to notice of November 6, 2001:

That he will call the attention of the Senate to the time allotted for tributes.

He said: Honourable senators, to begin this brief speech, I should like to say that I was inspired by a speech made spoken in the House of Commons on June 22, 1938, by Major Arthur-Joseph Lapointe, the Liberal member for Matapédia—Matane. He was my father.

In order to avoid delaying the proceedings, I will be very brief. I should like to take this opportunity to make a comment I believe to be of general interest. Despite my short experience as a senator, I humbly offer a suggestion that would no doubt reduce

the time spent on the interminably long tributes occasioned by deaths, retirements, or celebrations of famous people.

I realize that on such occasions some of our colleagues use the opportunity to speak more about themselves. My suggestion is therefore as follows. In the event of a death, or when tributes are made to living persons, I suggest that both Senate leaders make a short speech to mark the occasion. There may be exceptional circumstances, where people acknowledge that a colleague was a very close personal friend of the departed, and I can accept this.

Hon. Céline Hervieux-Payette: Honourable senators, I wish to make a few comments in response to Senator Lapointe's remarks.

Since my appointment to the Senate, I have also heard the tributes and I think that there will probably be some to me one day, and I will not be here. First of all, I would rather hear them when I am alive than after I am gone. Second, I refer you to today's *Journal de Montréal*, which says as follows:

The placement of commas and the crossing of t's generate many words, debates, questions and answers in this chamber.

Basically, we are being compared to an ivory tower. These words of praise, which are certainly well-intentioned and heartfelt, for departed colleagues — or for those who have departed this chamber but not necessarily this life — are certainly appropriate, and I think they should be published elsewhere.

Doing our work as legislators and using the time of this chamber for these occupations is certainly our primary duty. I therefore support Senator Lapointe's proposal.

Hon. Joan Fraser: Honourable senators, I agree fully with Senator Lapointe's proposal and I thank him.

Hon. Marcel Prud'homme: Honourable senators, not only do I support this proposal, but I myself have perhaps sometimes, but not always, gone on for too long when paying tribute to someone.

What Senator Lapointe has just proposed today to the Senate, I myself have already proposed. This matter should be referred to the appropriate committee. We discussed the proposal but, unfortunately, it was rejected.

Now that someone has risen and had the temerity and the courage to say what Senator Lapointe has just said, it could again be referred to the Standing Senate Committee on Rules, Procedures and the Rights of Parliament, which could examine the proposal for once and for all.

On motion of Senator Robichaud, on behalf of Senator Bacon, debate adjourned.

[English]

[Translation]

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Hon. Jack Wiebe, for Senator Gustafson, pursuant to notice of November 6, 2001, moved:

That the Standing Senate Committee on Agriculture and Forestry have the power to sit at 3:30 p.m. on Tuesday, November 20, 2001, to hear from Ambassador Danièle Smadja, Head of the European Commission in Canada, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

ADJOURNMENT

Leave having been given to revert to government Notices of Motions:

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, November 20, 2001, at 2 p.m.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, November 20, 2001, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(1st Session, 37th Parliament)
Thursday, November 8, 2001

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act respecting marine liability, and to validate certain by-laws and regulations	01/01/31	01/01/31	—	—	—	01/01/31	01/05/10	6/01
S-3	An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts	01/01/31	01/02/07	Transport and Communications	01/05/03 amended 01/05/09	3	01/05/10	01/06/14	13/01
S-4	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	01/01/31	01/02/07	Legal and Constitutional Affairs	01/03/29	0 + 1 at 3rd	01/04/26	01/05/10	4/01
S-5	An Act to amend the Blue Water Bridge Authority Act	01/01/31	01/02/07	Transport and Communications	01/03/01	0	01/03/12	01/05/10	3/01
S-11	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	01/02/06	01/02/21	Banking, Trade and Commerce	01/04/05	17 + 1 at 3rd	01/05/02 Senate agreed to Commons amendments 01/06/12	01/06/14	14/01
S-16	An Act to amend the Proceeds of Crime (Money Laundering) Act	01/02/20	01/03/01	Banking, Trade and Commerce	01/03/22	0	01/04/04	01/06/14	12/01
S-17	An Act to amend the Patent Act	01/02/20	01/03/12	Banking, Trade and Commerce	01/04/05	0	01/05/01	01/06/14	10/01
S-23	An Act to amend the Customs Act and to make related amendments to other Acts	01/03/22	01/05/03	National Finance	01/05/17	11 + 2 at 3rd (01/06/06)	01/06/07	01/10/25	25/01
S-24	An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence	01/03/27	01/04/05	Aboriginal Peoples	01/05/10	0	01/05/15	01/06/14	8/01
S-31	An Act to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	01/09/19	01/10/17	Banking, Trade and Commerce	01/10/25	0	01/11/01		

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-33	An Act to amend the Carriage by Air Act	01/09/25	01/10/16	Transport and Communications	01/11/06	0	01/11/06		
S-34	An Act respecting royal assent to bills passed by the Houses of Parliament	01/10/02	01/10/04	Rules, Procedures and the Rights of Parliament					

**GOVERNMENT BILLS
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Employment Insurance Act and the Employment Insurance (Fishing) Regulations	01/04/05	01/04/24	Social Affairs, Science and Technology	01/05/03	0	01/05/09	01/05/10	5/01
C-3	An Act to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act	01/05/02	01/05/10	Energy, the Environment and Natural Resources	01/06/06	0	01/06/12	01/06/14	18/01
C-4	An Act to establish a foundation to fund sustainable development technology	01/04/24	01/05/02	Energy, the Environment and Natural Resources	01/06/06	0	01/06/14	01/06/14	23/01
C-6	An Act to amend the International Boundary Waters Treaty Act	01/10/03							
C-7	An Act in respect of criminal justice for young persons and to amend and repeal other Acts	01/05/30	01/09/25	Legal and Constitutional Affairs	01/11/08	11			
C-8	An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions	01/04/03	01/04/25	Banking, Trade and Commerce	01/05/31	0	01/06/06	01/06/14	9/01
C-9	An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act	01/05/02	01/05/09	Legal and Constitutional Affairs	01/06/07	0	01/06/13	01/06/14	21/01
C-11	An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger	01/06/14	01/09/27	Social Affairs, Science and Technology	01/10/23	0	01/10/31	01/11/01	27/01
C-12	An Act to amend the Judges Act and to amend another Act in consequence	01/04/24	01/05/09	Legal and Constitutional Affairs	01/05/17	0	01/05/29	01/06/14	7/01
C-13	An Act to amend the Excise Tax Act	01/04/24	01/05/01	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	15/01
C-14	An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts	01/05/15	01/05/30	Transport and Communications	01/10/18	0	01/10/31	01/11/01	26/01
C-15A	An Act to amend the Criminal Code and to amend other Acts	01/10/23	01/11/06	Legal and Constitutional Affairs					
C-17	An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act	01/05/15	01/05/30	National Finance	01/06/07	0	01/06/11	01/06/14	11/01
C-18	An Act to amend the Federal-Provincial Fiscal Arrangements Act	01/05/09	01/05/31	National Finance	01/06/12	0	01/06/12	01/06/14	19/01
C-20	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	1/01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	2/01
C-22	An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act	01/05/15	01/05/30	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	17/01
C-24	An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts	01/06/14	01/09/26	Legal and Constitutional Affairs					
C-25	An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts	01/06/12	01/06/12	Agriculture and Forestry	01/06/13	0	01/06/14	01/06/14	22/01
C-26	An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco	01/05/15	01/05/17	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	16/01
C-28	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	01/06/11	01/06/12	—	—	—	01/06/13	01/06/14	20/01
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/06/13	01/06/14	—	—	—	01/06/14	01/06/14	24/01
C-31	An Act to amend the Export Development Act and to make consequential amendments to other Acts	01/10/30							
C-32	An Act to implement the Free Trade Agreement between the Government of Canada and the Government of the Republic of Costa Rica	01/10/30	01/11/06	Foreign Affairs					
C-33	An Act respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts	01/11/06							
C-34	An Act to establish the Transportation Appeal Tribunal of Canada and to make consequential amendments to other Acts	01/10/30	01/11/06	Transport and Communications					
C-40	An Act to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain provisions that have expired, lapsed, or otherwise ceased to have effect	01/11/06							

COMMONS PUBLIC BILLS

[illegible]

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5	referred back to Committee 01/10/23		
S-7	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	01/01/31	01/02/07	Transport and Communications	01/06/05	0	01/06/07		
S-8	An Act to maintain the principles relating to the role of the Senate as established by the Constitution of Canada (Sen. Joyal, P.C.)	01/01/31	01/05/09	Rules, Procedures and the Rights of Parliament					
S-9	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	01/01/31							
S-10	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	01/01/31	01/02/08	—	—	—	01/02/08		
S-12	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	01/02/07	01/03/27	Social Affairs, Science and Technology					
S-13	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	01/02/07	01/05/02	Rules, Procedures and the Rights of Parliament (Committee discharged from consideration—Bill withdrawn 01/10/02)					
S-14	An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	01/02/07	01/02/20	Social Affairs, Science and Technology	01/04/26	0	01/05/01		
S-15	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	01/02/07	01/03/01	Energy, the Environment and Natural Resources	01/05/10	0	01/05/15	Bill withdrawn pursuant to Commons Speaker's Ruling 01/06/12	
S-18	An Act to Amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	01/02/20	01/04/24	Social Affairs, Science and Technology (withdrawn) 01/05/10					
S-19	An Act to amend the Canada Transportation Act (Sen. Kirby)	01/02/21	01/05/17	Energy, the Environment and Natural Resources					
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	01/03/12		Transport and Communications					

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-21	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	01/03/13		Subject-matter 01/04/26 Social Affairs, Science and Technology					
S-22	An Act to provide for the recognition of the <i>Canadien</i> Horse as the national horse of Canada (Sen. Murray, P.C.)	01/03/21	01/06/11	Agriculture and Forestry	01/10/31	4	01/11/08		
S-26	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	01/05/02	01/06/05	Transport and Communications					
S-29	An Act to amend the Broadcasting Act (review of decisions) (Sen. Gauthier)	01/06/11	01/10/31	Transport and Communications					
S-30	An Act to amend the Canada Corporations Act (corporations sole) (Sen. Atkins)	01/06/12	01/11/08	Banking, Trade and Commerce					
S-32	An Act to amend the Official Languages Act (fostering of English and French) (Sen. Gauthier)	01/09/19							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (Sen. Kroft)	01/03/29	01/04/04	Legal and Constitutional Affairs	01/04/26	1	01/05/02	01/06/14	
S-27	An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	
S-28	An Act to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	

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(HANSARD)

Tuesday, November 20, 2001

THE HONOURABLE DAN HAYS
SPEAKER



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THE SENATE

Tuesday, November 20, 2001

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

QUESTION OF PRIVILEGE

NOTICE

Hon. Anne C. Cools: Honourable senators, earlier today, pursuant to rule 43(3), I had given notice to the Senate through the Clerk of the Senate that I would be raising a question of privilege later this day.

As is required pursuant to rule 43(7) of the *Rules of the Senate*, I give oral notice that I will rise later this day to address my question of privilege. I intend to raise this question of privilege in respect of certain words spoken in the Senate during debate on Inquiry No. 8, last Thursday, November 8, 2001, which words I believe thwarted my privileges to speak in the Senate and my privileges to move adjournments of debate and to request leave of the Senate to revert; and also in respect of certain senators' wrong assertions about my attendance in the Senate; and also in respect of the confusion that day about certain Senate rules, the resulting imposition of conditions contrary to Senate rules on my speaking in the Senate; and also in respect of the distraction of the Speaker by certain Table officers while I was speaking.

As I said, honourable senators, I have given oral notice. It will be my intention to expand more fully later this day when the proper opportunity presents itself.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of the Honourable Helen Sham-Ho, an independent member of the Legislative Council of New South Wales, Australia, who has been selected to represent that Parliament at the Inaugural Canadian Parliamentary Seminar.

Hon. Senators: Hear, hear!

NATIONAL CHILD DAY

Hon. Landon Pearson: Honourable senators, today marks National Child Day. On November 20, 1989, the United Nations General Assembly adopted unanimously the Convention on the Rights of the Child. Canada ratified the convention in December 1991; and to commemorate these events, in 1993, the

Parliament of Canada designated November 20 as National Child Day.

This morning, over 250 children and adolescents, parliamentarians, community leaders and representatives from government and non-governmental organizations gathered in this Senate chamber to celebrate the joy, the commitment and the energy of youth, to say "Yes for Children." "Yes for Children" is the name of the Global Movement for Children that is bringing together people of all ages to build a better world for children and all of us. The movement is about child participation, about action and about the accountability of governments to keep the promises they made to them at the World Summit for Children in 1990, which Canada co-chaired. Nelson Mandela and Graça Machel are its leaders, and I know that we have all been deeply moved by their message of hope for children they brought to us over the last few days in Toronto and here in Ottawa.

The Global Movement for Children is focused on the following 10 critical actions considered necessary to improve the lives of children and adolescents.

One: Leave no child behind. Every girl and boy is born free and equal in dignity and rights, and therefore all forms of discrimination affecting children must end.

Two: Put children first. In all actions related to children, the best interests of the child shall be our primary consideration.

Three: Care for every child. Children must get the best possible start in life. Their survival, growth and development in good health and with proper nutrition is the essential foundation of human development.

Four: Combat HIV/AIDS. Children and their families must be protected from the devastating impact of HIV/AIDS.

Five: Protect children from harm and exploitation. Children must be protected against any acts of violence, abuse, exploitation, discrimination and neglect. Immediate action must be taken to eliminate the worst forms of child labour.

Six: Listen to children and ensure their participation. Children and adolescents are resourceful citizens capable of helping to build a better future for all. We must respect their right to express themselves and participate in all matters affecting them in accordance with their age and maturity.

Seven: Educate every child. All girls and boys must have access to free and compulsory primary education. Gender disparities in primary and secondary education must be eliminated.

Eight: Protect children from war. Children must be protected from the horrors of armed conflict.

Nine: Protect the earth for children. We must safeguard our natural environment with its diversity of life, its beauty and its resources.

Ten: Eradicate poverty. We reaffirm our vows to break the cycle of poverty. This is what the leaders at the world summit said and this is what they will say at the Special Session on Children, to break the cycle of poverty, united in the conviction that efforts to eradicate poverty must begin with children and the realization of their rights.

• (1410)

Honourable senators, the outcome document of the United Nations Special Session on Children that was slated for September 2001 in the week following the terrorist attack on New York, which has now been rescheduled for May 2002, is a concerted effort by the global community to come to terms with the challenge and the promise of the largest and youngest generation the world has ever known. The document is called "A World Fit for Children."

As members of the human family, each of us is responsible and all of us are accountable. We will change the world with children.

[Translation]

Hon. Pierre Claude Nolin: Honourable senators, today we are celebrating National Child Day. In 1993, the Government of Canada designated this date to commemorate the adoption by the United Nations General Assembly on November 20, 1989, of the UN Convention on the Rights of the Child.

Adoption of that text marked a milestone in the search for greater recognition and enhancement of the rights of the child. It marked the international community's recognition of children's vulnerability and the resulting need to protect them. For example, article 3 of the 1989 Convention states as follows:

...in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Honourable senators, this year National Child Day is particularly special in that we are in the process of examining Bill C-7, the Youth Criminal Justice Act. In recent weeks, your Legal and Constitutional Affairs Committee has, despite a tight time frame, carried out a rigorous and non-partisan examination of the provisions of this bill.

Throughout this exercise, a number of the committee members noted that certain provisions of Bill C-7 might be challenged, not only under the Canadian Charter of Rights and Freedoms, but also under the 1989 Convention.

What is more, a number of expert witnesses voiced serious reservations concerning the conformity of this legislation with international obligations. In order to remedy this, your committee

is therefore recommending 14 amendments. One of these will encourage the courts to take into consideration the principles and provisions of the 1989 Convention when interpreting Bill C-7. I would emphasize that nine of the committee members supported these proposed amendments.

Honourable senators, since Canada's future and its prosperity depend in large part upon its children, we have a duty as parliamentarians and as parents to ensure that the reform of the youth justice system as proposed by the Minister of Justice will respect our international commitments.

To that end, I would invite you on this National Child Day to take note of the remarkable accomplishments of the Legal and Constitutional Affairs Committee and of its recommendations, in order to ensure that the rights, needs and best interests of millions of young Canadians are respected by this legislation.

[English]

Hon. B. Alasdair Graham: Honourable senators, Regent Park, just slightly east of Toronto's downtown centre, is Canada's oldest housing project. Originally known as Cabbagetown, due to the cabbages that were found growing in the front yards of homes occupied by the Irish immigrants who originally settled there, it became, over the course of strong immigration waves into Canada over the decades, a microcosm of the world community. Over 30 languages are listed as the mother tongues of the children who attend Regent Park Public School, the beautiful children of the human family whom we are privileged to call Canadian.

A wonderful gentleman by the name of Stanley Gizzle, a citizenship judge and former leader of the sleeping-car porter advocacy group, visited the school a few years ago and called the student population "a garden of beautiful flowers."

Today, on National Child Day, an event that owes so much to the remarkable dedication of our colleague Senator Landon Pearson to all of the world's children, we celebrate the lives of all our beautiful flowers.

We think of the unanimous adoption of the United Nations General Assembly Rights of the Child in 1989. We reflect upon the improvements in the rights of all of our children, and we think of the enormous hurdles yet to come.

Yes, honourable senators, they are born amongst and raised among us with rights: rights to shelter and good health care; rights to nourishment and protection; rights to societies that respect them and love them; rights to the promise of a better world.

In the aftermath of the tragedy of September 11, our hearts are constantly filled with thoughts about the future of the generations yet to come, but it will not be enough to change the world for children. We must change the world with children. We must listen carefully to simplicity and the honest wisdom of our young people. We must reach out to them and give them every opportunity to speak.

On Saturday, another visitor graced the halls of Regent Park School, now renamed in his honour. A great Canadian of South African origin, the Lion of Africa, Nelson Mandela, and his wife, Graça Machel, were greeted by 13-year-old Carnelle Grabriel and Nurul Mozunder at the school's doors and escorted to their seats.

As always, these two global champions of the rights of the child were feted with children's choirs, and, as Mr. Mandela did yesterday on becoming a citizen of Canada, he smiled and swayed gently as he listened to the garden of beautiful flowers celebrating freedom.

I thought, as I looked from the Museum of Civilization across at the Parliament Buildings, that this is what the dream of Canada is all about. If we listen to our children, that dream will never die.

THE LATE GIL GORLEY

TRIBUTE

Hon. Richard H. Kroft: Honourable senators, the Senate community is once again marking the passage of a valued employee and colleague. Let me express our deepest condolences to the family and friends of Mr. Gil Gorley, whose funeral took place earlier today.

Mr. Gorley died suddenly on the morning of Thursday, November 15. He was 38 years old. He had worked for the Parliamentary Precinct Services Directorate for more than 11 years, first as a messenger and, more recently, in the print shop.

He is remembered by his colleagues as a dedicated worker who strove for quality in all that he did, while displaying a fine, gentle sense of humour. He had a love of music, which he shared as he played guitar in the company of family and friends.

Mr. Gorley is survived by his companion, Josée Ouellette, and their children, Jacob, age eight, and twins Samuel and Myriam, age five.

[Translation]

I call upon honourable senators to join with me in extending our most sincere condolences to his family.

[English]

Our thoughts and prayers are with them during this most difficult and sad time.

[Translation]

ROUTINE PROCEEDINGS

AIR CANADA PUBLIC PARTICIPATION ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-38, to amend the Air Canada Public Participation Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Finestone, bill placed on the Orders of the Day for second reading two days hence.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

FORTY-SEVENTH ANNUAL SESSION, OCTOBER 5-9, 2001—
REPORT OF CANADIAN DELEGATION TABLED

Hon. Pierre Claude Nolin: Honourable senators, I have the honour to table the eighth report of the Canadian NATO Parliamentary Association. This is the report of the official delegation representing Canada at the 47th annual session of the NATO Parliamentary Assembly held in Ottawa from October 5 to 9, 2001.

[English]

PROGRESS ON BANNING OF ANTI-PERSONNEL LAND MINES

INQUIRY

Hon. Sheila Finestone: Honourable senators, I give notice that on Thursday next, November 22, 2001, I will call the attention of the Senate to the world's current state of progress in relation to the Ottawa convention on the banning of anti-personnel land mines.

QUESTION PERIOD

PRIME MINISTER'S OFFICE

INVITATION TO RIGHT HONOURABLE BRIAN MULRONEY TO
INVESTITURE OF NELSON MANDELA AS HONORARY CITIZEN

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, none of us who was there yesterday could not have helped but been moved by the touching ceremony to confer honorary citizenship on Mr. Mandela. I commend the government for having organized it in such a tasteful, respectful and moving way.

On the other hand, there was one glaring omission amongst the guests, who included diplomats, civil servants, MPs, senators and many other Canadians: the presence of former Prime Minister Brian Mulroney, who, in the minds of many of us, should have been there. As I read an article in this morning's *Ottawa Sun*, by Greg Weston, it occurred to me that I should ask why he was not invited. I quote from Mr. Weston's article:

...history will record that it was a previous Tory government, including Canada's then external affairs minister, Joe Clark, which did all the heavy diplomatic lifting against South Africa's former racist apartheid policies, the abolition of which occupied most of Mandela's life.

Mr. Clark was in attendance, but Mr. Mulroney was not. I ask the honourable senator to explain why he was not invited.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not know whether he was invited. However, I will say that all members on this side would join with honourable senators opposite in saying that the whole approach taken toward apartheid in South Africa was Brian Mulroney's finest hour. It is well recognized and respected from coast to coast that the strong position that he took as the Prime Minister of Canada, in fact, brought about significant changes in South Africa.

Senator Lynch-Staunton: I thank the honourable senator for that recognition which is shared by everyone in this chamber. However, the purpose of my question about Mr. Mulroney's absence is to ensure that it was an oversight and not a deliberate action. I would like the honourable senator to obtain that information for me.

Senator Carstairs: Honourable senators, I will pursue that matter to obtain the requested information for the honourable senator.

[Translation]

JUSTICE

CONSTITUTION AMENDMENT, 2001, NEWFOUNDLAND AND LABRADOR—EFFECT ON BORDER WITH QUEBEC

Hon. Pierre Claude Nolin: Honourable senators, my question is for the Leader of the Government in the Senate. It concerns the motion tabled in this house and appearing on the Order Paper intended to change the name of the province of Newfoundland. In a press release from the office of the Minister of Industry on October 26, 2001, we read:

The resolution has nothing to do with borders, and thus, the proposed amendment will have no impact on the boundary between Newfoundland and Quebec.

Does Senator Carstairs acknowledge that the mere fact of adding the word "Labrador" to the schedule of the Newfoundland Act means the federal government is recognizing once again, under section 43 of the Constitution Act, 1982, the legality of the boundary line established in 1927 by the judicial committee of the Privy Council in London, although Quebec has never recognized it?

[Senator Lynch-Staunton]

[English]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am aware of the fact that the border of 1927 has not been recognized by the Province of Quebec. In fact, I understand they occasionally pass resolutions to that effect in the National Assembly.

Senator Nolin: That occurs every year.

Senator Carstairs: Honourable senators, the border has been in existence since 1927, and it was recognized in 1949. This particular document does not in any way change the border as it is currently drawn.

[Translation]

Senator Nolin: Honourable senators, on April 29, 1999, the Newfoundland House of Assembly adopted a resolution asking the federal government to amend the Newfoundland Act to change the name of the province. In a statement made that same day before the members of that legislature, the former Premier of that province, the Honourable Brian Tobin, said:

The adoption of this amendment by the House of Commons and the Senate will complete the historic work undertaken by the Privy Council in 1927, in a decision that defined Labrador.

Seven months later, on December 6, 1999, Mr. Tobin reiterated that position by saying that the constitutional amendment to be adopted by the two Houses of the Parliament of Canada would:

...simply legalize what has been the border of this province, as confirmed by the 1927 decision of the British Privy Council.

In this context, how can the Honourable Senator Carstairs reconcile the current position of the federal government on this issue with the statements made by the former Premier of Newfoundland, who is now the Minister of Industry in her government?

[English]

Senator Carstairs: Honourable senators, we must deal with not only the 1927 decision of the Privy Council, but also with the Terms of Union, which permitted the entry of Newfoundland into Confederation in 1949. The reality is that the current resolution before the Senate does not change the border between Labrador and the province of Quebec.

[Translation]

Senator Nolin: Honourable senators, a briefing note attached to the notice of motion tabled by the minister on October 25 explains the objective of the constitutional amendment proposed by the government to change the name of the province of Newfoundland. In the second paragraph of that note, it is indicated that, prior to the tabling of the motion:

...the federal government consulted the governments of Newfoundland and Quebec.

Could the minister table the relevant documents showing that the two provinces were consulted prior to the tabling of that motion, to confirm that the motion will not have any impact on the border drawn between Newfoundland and Quebec?

[English]

Senator Carstairs: Honourable senators, I can certainly make inquiries as to what those consultations included. I do not anticipate that there exists a document, per se, which I could table, but I will bring back every bit of information with respect to the consultation process that I can find.

●(1430)

NATIONAL DEFENCE

AFGHANISTAN—PROPOSAL TO SEND TROOPS

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. It is with respect to Afghanistan and our sending 1,000 ground troops there. We heard that the troops had been put on 24-hour stand-by. Now, they are not on 24-hour stand-by.

The Prime Minister is quoted as saying, "We do not want to have a big fight there. We want to bring peace and happiness as much as possible." Did the Prime Minister really say that?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not know about the latter part of the statement. It has been very clear from the beginning that the purpose of the PPCLI, the Princess Patricia's Canadian Light Infantry, would be to do two things: provide stability and provide humanitarian aid. They have not been on 24-hour stand-by, but on 48-hour stand-by. A small reconnaissance team has apparently been on 24-hour stand-by, but the bulk of the troops have been on 48-hour stand-by.

Quite frankly, the government is holding back, as are troops from Britain and France. We are holding back until we know exactly their mandate, to whom they would be reporting and what exactly they would do once on the ground.

It is important for senators to understand that discussions are taking place today in Washington with all the relevant players. Our Minister of Defence is there. It is hoped that, after these discussions, we will have a better understanding as to whether Canada will send those troops to provide the stability and humanitarian aid.

Senator Stratton: Honourable senators, as we all know, there is a big fight going on over there. The last I heard, we have three Canadian warships now in the Arabian Sea.

I can understand the decision to hold back troops. I want to ensure that once they are there, if fighting breaks out, for whatever reason, that we are not going to turn tail and run home. If the decision is made that our troops are going there, will we hightail it for home if a big fight breaks out? What is the tolerance for body bags? We have to realize and recognize that we cannot merely talk nice. We also have to be there and be tough, which I know our troops would be. That is unquestionable, but I question the determination of the government to stand and fight, given the words of the Prime Minister.

Senator Carstairs: Honourable senators, the honourable senator queries whether we will defend ourselves in an adequate way. Of course we will. The Minister of Defence has been very clear. He wants the troops that are sent to be the appropriate troops. He wants to ensure that those troops reflect appropriately the actions the government wants them to take. I state again that the principle purposes of sending those troops would be for security and humanitarian efforts.

Every time we send troops abroad, primarily on peace missions, we know that our troops are in some danger. We never know when flare-ups will occur. The troops realize that, as well. Therefore, it is incumbent upon us to be appropriately equipped. When our troops go into these areas, we must ensure that they are able to adequately defend themselves.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): As a matter of public policy, what is the government's view of the level of tolerance for Canadian troops incurring casualties in an area that is in open armed conflict? One must consider the level of tolerance during the peacekeeping intervention in Somalia, where the leader of the current coalition left after some 18 American soldiers became casualties. One must consider that General Roméo Dallaire was completely abandoned by the Belgian troops after that country sustained 10 fatal casualties. What is the policy of the Government of Canada as to the level of tolerance for fatal casualties should we go to Afghanistan?

Senator Carstairs: Honourable senators, plans are not made on the basis of levels of tolerance. Plans are made on the basis of whether the troops that we send there can do effectively the job we have assigned them. Clearly, the expectation would be that they would not be in areas of heavy fighting and interaction, because it would be very difficult to provide stability and humanitarian aid if that were the case.

I can assure the honourable senator that the troops will be adequately equipped. Decisions will be made, as they are being made in Washington today, to ensure that appropriate troops are sent with appropriate equipment, and appropriate leadership and determination accompanies such an assignment.

Senator Kinsella: Honourable senators, I should like to ask the minister a supplementary question. Should Canadian troops, if in Afghanistan, capture a member of the Taliban leadership or a member of al-Qaeda, is it the policy or intent of the Government of Canada that such an individual, or group of individuals, would be brought back to Canada for trial, or is it the policy that such captives would be turned over to the Americans? The President of the United States has just signed a provision to the effect that the American court martial system would be the judicial forum within which international terrorism will be adjudicated. What is the government of Canada's position should we capture a terrorist in Afghanistan?

Senator Carstairs: Honourable senators, we would ensure that all international conventions to which we are a signatory are respected. To my knowledge, we have signed all conventions with respect to the capture and treatment of prisoners. We would adhere absolutely to the international conventions that we have signed in this regard.

As to the American decision to use a military tribunal, at this point Canada knows very little about it. Canada has certainly not indicated its approval.

INTERNATIONAL TRADE

UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT

Hon. Gerry St. Germain: Honourable senators, my question is to the Leader of the Government in the Senate, and it relates to a question I asked before the recess in regard to the softwood lumber issue. That issue is adversely and negatively affecting the region that I represent, and the province from which I come. We had more mill closures during the week of the recess. I believe that there were 400 people laid off at one of the major mills in British Columbia, which will most likely never open again.

Can the leader give the Senate and British Columbians a brief update as to where we stand on the softwood lumber issue with the United States?

Hon. Sharon Carstairs (Leader of the Government): As honourable senators know, I am sure, there are ongoing meetings between the Government of Canada and the United States. Also, there have been some meetings within British Columbia in which the B.C. government has decided to engage itself. They have assured the government that they remain committed to pursuing a durable solution. It appears that both the British Columbia government and the Canadian government are moving forward together on this matter.

The Canadian government continues to work with the provinces and territories in their discussions with the United States, and we are committed to finding a solution.

• (144)

There was some good news out of the WTO meetings last weekend with respect to a greater collegiality, if you will, on dumping. It is hoped that this matter will be resolved, for the

sake of lumber operations in British Columbia, sooner rather than later.

FINANCE

DEVALUATION OF DOLLAR

Hon. Gerry St. Germain: Honourable senators, as the minister knows, one of my main concerns — and this is a concern for many British Columbians and other Canadians as well — is the devaluation of the Canadian dollar. Up to now, the responses I have received from the minister on this question include a flippant reference to a flat tax.

As of last week, several editorials addressed the adverse effect of the sliding Canadian dollar on various sectors such as softwood lumber. I go back to my original question. The Prime Minister has stated that a low dollar is a good dollar. One editorial asked why we would not drop the dollar to 50 cents if a low dollar is a good dollar? That just does not make sense. A statement like that is senseless.

In speaking privately with a lot of the huge operators, one of the biggest stumbling blocks in dealing with the softwood lumber industry is the low dollar. A lot of the political posturing by the Americans is totally unfair, but we are allowing the Canadian dollar to slide in order to keep us competitive. That is the belief of many who are closer to the issue than me. The government must do something about the value of the dollar. What are they prepared to do in that regard?

Hon. Sharon Carstairs (Leader of the Government): As honourable senators know, it has been the policy of this government and of previous governments to let the Canadian dollar float along with other international currencies. That is the reality. We are an exporting country. We usually benefit from a dollar that is valued somewhat lower than the American dollar. The Prime Minister has indicated as much in the past. He has also indicated that he would prefer to see the dollar higher than it was yesterday when it closed at 62.95 cents. Most of us would like to see the dollar higher than that. However, at the present time, it is a floating currency.

Senator St. Germain: If it is floating, then perhaps we should be considering the suggestion backed by many CEOs that our dollar be pegged to the U.S. dollar. We could have a North American currency, as opposed to a currency that floats always downward. That is not necessarily my suggestion. It is backed by a multitude of CEOs in this country. What is the government's reaction to that proposition?

Senator Carstairs: I am glad the honourable senator has dissociated himself from that policy. One survey has quoted some people suggesting that route. The Minister of Finance has clearly stated that we will not go that route. I support the Minister of Finance, obviously because of cabinet solidarity, but I would do so anyway because I do not believe in a common currency. If one looks at the effects of the euro, the common currency in Europe, that move has created a disincentive, not an incentive, for that currency.

FOREIGN AFFAIRS

CANADIAN INTERNATIONAL DEVELOPMENT AGENCY— SOCIAL DEVELOPMENT AID

Hon. Douglas Roche: Honourable senators, yesterday the Prime Minister said the forthcoming budget will commit more money to official development assistance. Canada now sits at number 17 on the list of 22 donor countries of the Organization for Economic Co-operation and Development, the OECD. At 0.26 per cent of GDP, we are not only far below the international target of 0.7 per cent, but we are at the lowest level in Canada since 1965.

It is impossible to make up that lost ground in one budget, but can the government ensure that the quantitative increase will be directed to quality improvement and to the four key areas of social development: health and nutrition, basic education, HIV/AIDS, and child protection? Will the minister ensure that this question and the answers she will give will be sent to the CIDA authorities?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for his question. The Prime Minister has made it very clear that there will be an increase. We must wait for the budget to see exactly what that increase will be.

The four areas that the senator has identified have become the four challenge areas for CIDA. I anticipate, since I see no policy change on the horizon, that that will continue to be the thrust of our spending. As to the latter question, the minister will of course receive a copy of this question.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table two delayed answers, the first to the question raised by Senator Spivak on October 18, 2001, concerning the safety of livestock antibiotics, and the second to the question raised by Senator Meighen on October 24, 2001, concerning the Order in Council and the benefits available to personnel taking part in Operation Apollo.

HEALTH

SAFETY OF LIVESTOCK ANTIBIOTICS

(Response to question raised by Hon. Mira Spivak on October 18, 2001)

The issue raised in the study published in the New England Journal of Medicine relates to the use of antibiotics in animals and their impact on antibiotic resistance in humans.

Antibiotic resistance in humans represents a significant public health threat. This resistance stems largely from

misuse of antibiotics in human medicine and clustering of people in institutions such as hospitals and day care centers.

It is recognized, however, that the use of antibiotics in animals can contribute to antibiotic resistance in humans. For this reason, Health Canada is developing strategies to track antibiotic resistance and antibiotic use to control the spread of resistant bacteria from animals to humans. The Department has strengthened research and surveillance activities to support the development of science-based policy. An external advisory committee has been established to assist in this policy development. International research and policy initiatives will be considered in developing strategies to control the spread of antibiotic resistance.

Protecting the health and safety of Canadians is of paramount importance and all necessary action will be taken to control the spread of antibiotic resistance.

NATIONAL DEFENCE

OPERATION APOLLO—ORDER IN COUNCIL PLACING TROOPS ON ACTIVE SERVICE

(Response to question raised by Hon. Michael A. Meighen on October 24, 2001)

Order in Council P.C. 1989-583 placed all members of the CF Regular Force and Reserve Force on active service when outside of Canada. This Order in Council is still in effect today. Based on legal advice, it was decided to discontinue the practice of issuing operation specific orders in council because these would be redundant with the before mentioned Order in Council.

The Special Duty Area and contingent benefits paid to CF personnel while on Operation Apollo are being assessed. As of now, all CF personnel deployed on Operation Apollo will receive added compensation. If the CF assessment of benefits due its members is higher than their current rate of compensation, the CF personnel will receive this higher rate retroactively.

[English]

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Before calling Orders of the Day, I should like to introduce two pages visiting with us this week from the House of Commons.

On my left is Dirk Druet of Charlottetown, Prince Edward Island. He is enrolled in the Faculty of Public Affairs and Management at Carleton University, majoring in Political Science. Welcome.

On my right is Aija White of Maple Ridge, British Columbia. She is studying in the Faculty of Arts at the University of Ottawa. Welcome.

ORDERS OF THE DAY

MISCELLANEOUS STATUTE LAW AMENDMENT BILL, 2001

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Robichaud, P.C., seconded by the Honourable Senator Hervieux-Payette, P.C., for the second reading of Bill C-40, to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain provisions that have expired, lapsed, or otherwise ceased to have effect.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I was able to use the break of last week to complete my reading of Bill C-40. I did not find any more errors than the one I found in my reading of the first part.

One would expect, honourable senators, that a bill designed to correct anomalies and inconsistencies in statutes would not itself contain an error or anomaly. Therefore, I would hope the committee to which this bill is referred will make the necessary observation on the error and have it corrected so that the bill might go forward.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Robichaud, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

[Translation]

NUNAVUT WATERS AND NUNAVUT SURFACE RIGHTS TRIBUNAL BILL

NOTICE OF MOTION TO DECLARE BILL NULL AND VOID—ORDER STANDS

On the Order:

Second reading of Bill C-33, respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, it is my duty to draw the

attention of the Senate to certain print errors in relation to Bill C-33. The bill was adopted by the House of Commons on Friday November 2, 2001. On Monday November 5, a temporary scroll was received from the House of Commons and a first printing of the bill was made. On Tuesday November 6, the bill was read for the first time in the Senate.

[English]

On Wednesday November 7, at 6:00 p.m., the Commons journals branch informed the deputy clerk's office of an error. The parchment that had been sent did not include three amendments made by the House of Commons Aboriginal Affairs Committee.

•(1450)

On Thursday, November 8, the bill was reprinted, and a new parchment was sent to the Senate. Copies did not arrive at the Senate chamber in time for distribution before second reading debate was to begin, so second reading was then held. The item was stood.

On Tuesday, November 13, a further error was discovered in the parchment copy, on page 71. One of three committee amendments had been repeated incorrectly in clause 171.1. Also, "Nunavut" had been incorrectly spelled at the top of each page, in English.

On Wednesday, November 14, a new parchment was received — a third — and the bill was reprinted. Honourable senators will find on their desks two copies of the bill, which is Bill C-33, a copy that contains the error and a copy marked "reprint" — which is the copy with all the corrections. The second impression was taken away. The first one was not taken away because officially it was still the copy that was presented here in the Senate.

Senator Kelleher: Are you choking on your words?

Senator Robichaud: No, but I find it a little embarrassing that we should have to go through this, even though the error was not made in this house. Nevertheless, we will proceed.

I want to bring this situation to a conclusion so that we may debate Bill C-33.

[Translation]

Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(i), I move:

That notwithstanding rule 63(1), the proceedings on Bill C-33, respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts, which took place on Tuesday November 6, 2001, be declared null and void.

[English]

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition):

Honourable senators, I am not inclined to grant leave because, unlike a simple parchment error that might be the case in Bill C-40 — and we will attend upon the examination of Bill C-40, which we have referred to the Standing Senate Committee on Legal and Constitutional Affairs — the bill before us right now is the only bill that we have apprehended. After communications between the Table in the other place and our Table, Senator Robichaud has pointed out that we now have three parchments from the House of Commons. The one before us is the bill that was given first reading in this house. We have the problem of how to dispose of that bill.

Honourable senators, in my opinion it would be wise to take into consideration the information that has been provided to us, but quite frankly this is more than a parchment error. There were substantive amendments made to the bill. We are not talking about a typographical error here.

It seems to me that the solution is for us to dispose of the bill before us by not proceeding any further and by sending a message to the other place informing them that we will not continue to proceed on the bill that came with the first parchment. If they wish to send us a proper message, it will be up to them. We do not know what they have done. They have given us three messages saying that they have done three different things.

It is all well and good for people to say there were errors, but I believe it is far more than errors. In terms of the proper proceedings of a bicameral Parliament, we have to know exactly what the bill is that has been adopted in the other place to which our consent is being sought.

It seems to me that we should dispose of the matter in front of us, that we should send a message to the other place telling them we have disposed of the original bill that was sent to us and leave it to them to send us another one if they wish. We do not know what they have done. They have told us three different things. It seems to me that we have to send them a message to ask them to clarify and send us a proper parchment with a properly printed bill.

[Translation]

Senator Robichaud: Honourable senators, I do not know if I am in order. I believe the house did not give its consent for the adoption of the motion I tabled. This motion is consistent with what Senator Kinsella proposes, that is to dispose of the first copy that we were sent, which did not respect faithfully the bill that was adopted in the House of Commons.

The clerks assure me that the copy of Bill C-33 I have in hand, marked "Reprint," respects the bill that was adopted by the House of Commons on November 2, 2001.

[English]

Senator Kinsella: Honourable senators, the difficulty I have with that is that we have been assured by three documents

attesting to what was passed in the other place, all signed by officers of the other place, and we do not know exactly what the bill is that they have passed.

In this confusion, I think we would be acting in good faith by simply disposing of the bill at second reading, because we have learned that is not the bill that was passed in the House of Commons. We need to send a message to the other place to inform them that they have sent us three different parchments, three different bills, each one being attested to as being the bill that was sent over to us inviting us to give our consent to the bill.

•(1500)

This matter can be addressed quickly by sending a message to the House of Commons, asking them to send us a copy of the bill that was passed there, and to send it to us in the proper form. Otherwise, we will have three different attestations of three different versions of the bill.

[Translation]

Senator Robichaud: Honourable senators, I believe that the message from the clerk and not a message from the Senate was received from the other side. We were not pleased at receiving copies that were not true copies of what had been passed in the House. This is not an error on the part of the House of Commons. It passed a bill. When it was reprinted, as the documents were being transferred, the true copy of the bill passed in the House of Commons was not reprinted.

I understand the comments of Senator Kinsella. This is an administrative error. The message has already been delivered.

[English]

The Hon. the Speaker: Let me try to reflect back to the house what I understand to be before us. Senator Robichaud has asked for leave to present a motion to declare the proceeding on first reading of Bill C-33 null and void, which would leave our Order Paper clear to receive a corrected Bill C-33, and the process of first, second and third readings would proceed in the normal course. The bill before us that has received first reading would be declared null and void.

In response to the request to so proceed, Senator Kinsella has suggested that leave would be granted. However, he has provided an understanding of the steps that would follow that would involve a message being sent from the Senate to the House of Commons requesting that the message in regard to Bill C-33 be sent as if it were the first time.

The difference between what Senator Robichaud is asking leave for and what Senator Kinsella is agreeing to give leave for involves the issue of a message being sent to the House of Commons, which, as I understand it, would require a resolution of this house, which we could deal with expeditiously, and a message could be sent in regard to Bill C-33. I am not sure of the exact wording.

I believe leave is granted to proceed with Senator Robichaud's motion; however, it is not clear what will follow. Perhaps I could ask him for a comment as to whether he understands the process as Senator Kinsella has described it and whether he is in agreement with that.

[Translation]

Senator Robichaud: Honourable senators, what sort of message would we send the House of Commons? The Chair has said we should send it in the form of a motion. I contend that the error was not committed by the House of Commons. It passed a bill with amendments. The transfer of documents did not faithfully respect the bill passed by the House of Commons. I believe it would serve no purpose to send a message to the House of Commons, because the error did not originate in the other place, but elsewhere. The transfer of documents is a purely administrative matter.

This is why I have difficulty understanding the nature of the message we could send the House of Commons. The Clerk of the Senate and his team have already contacted the administration of the House of Commons to make sure such errors are not repeated and that the final copy marked "Reprint" is a faithful one. The Leader of the Opposition has pointed out to me that he does not have this copy at the moment. I have been assured there is a second copy. The first, official copy has not been withdrawn.

The motion I am proposing would withdraw the copy that was not the true one and did not contain the amendments. It was the first copy that was not marked "Reprint" at the top. The second was distributed to all honourable senators and contains no error.

According to my motion, we would cancel all proceedings on the first copy. We could reintroduce Bill C-33. We could initiate debate on a true copy reflecting the bill passed by the House of Commons.

[English]

Hon. John Lynch-Staunton (Leader of the Opposition): This is not the first time this has happened, honourable senators. I believe His Honour will find an opinion, if not a ruling, by his predecessor regarding these so-called administrative errors. Senator Molgat, as I recall, seriously reprimanded whoever was responsible for our receiving the wrong documentation.

When that happened before, we graciously accepted to do the corrections or substitutions ourselves. We did so with a warning, that if such a situation were to happen again the matter should be brought directly to the House of Commons that they made a mistake in what they sent us. The only way that that can be impressed upon them is for us to alert them that they made a mistake and to reintroduce Bill C-33 in its correct form through a new message from the House of Commons. It is not for us, once again, to correct the errors made by administration elsewhere.

I commend our Table officers for having carefully and meticulously, as they do in looking at legislation, picked out

these mistakes, not once, but twice. Who is to tell us now that the third version to be tabled is the correct version?

The House of Commons should be entertained with this entire matter and asked to begin again by whatever motion or resolution this house feels would be required for them to do so.

The Hon. the Speaker: Do any other senators wish to comment on this matter of procedure with respect to the bill?

I should like to indicate that, as your presiding officer, I must be very careful in how I proceed. Senator Robichaud, as I understand it, has suggested that we have everything we need to proceed with first reading again. Senators Kinsella and Lynch-Staunton have indicated that that is not the case.

If we were to proceed with this motion, I fully anticipate that, if I were to stand and read Bill C-33 a first time again, an objection would be made that proceeding in such a fashion would not be in order. In anticipation of that, unless some senator rises to give leave to avoid that issue, I shall take this matter under consideration to determine whether Senator Robichaud's position is correct. That is, to assert that no other step is required if a bill is declared null and void at first reading stage in order to proceed again with first reading of the same bill, that bill having been corrected in terms of the description of Bill C-33 as it has been set before us.

•(1510)

Unless honourable senators wish to proceed now, as suggested by the Deputy Leader of the Opposition, to withdraw this bill and send a message back to the House, which would also require leave if we were to do so today, then I think I should take the matter under consideration and try to come back tomorrow with a ruling on whether Senator Robichaud is correct that nothing more is required from the House and that the reprinted version of the bill is all we need to proceed with first reading again.

I do not remember the ruling to which Senator Lynch-Staunton referred well enough to give a ruling from the Chair at this moment. I would have to review that ruling. Although I have some recollection of it, my recollection is not good enough to feel confident in making a decision about the correctness or incorrectness of the position put forward.

Although I have said that I have heard enough on the matter of order, another senator has risen. If Senator Cools will take her seat for a moment, I shall review what has transpired in order that we are all clear about it.

A matter of order has come before this chamber. My interpretation of the issue before us is that it is a matter of order with regard to whether it is correct to proceed in a certain way. I have invited honourable senators to comment on the matter of order. I was about to take my chair and proceed with the Order Paper, having said that I would return with a ruling at the earliest possible time.

An honourable senator has risen, wishing to participate in the debate on the matter of order. I believe that we need leave to reopen debate on the order. It may well be that senators have useful comments to make.

Is leave granted to hear further submissions?

Senator Kinsella: I would like to suggest, for the consideration of my colleagues, that perhaps the matter should be stood. I am not sure that a point of order was raised.

Hon. Anne C. Cools: No point of order was raised.

Senator Kinsella: If the matter were stood at this time, discussions could be held through the usual channels and perhaps a solution could be worked out between now and tomorrow.

Senator Cools: Honourable senators, perhaps I was inattentive, but I did not hear a point of order raised. I heard permission for leave being requested. His Honour said he wanted to take the matter under advisement and return with a ruling. To my memory, no ruling was requested, because no point of order was raised. Therefore, it is not open to His Honour to interrupt the debate and say that he will take the matter under advisement. Senators as a whole must simply resolve now how the debate will continue. As no point of order has been raised, no ruling from His Honour is required. The matter before us is whether a senator should be given leave.

Intrinsic to the whole matter is that the Senate is being asked to overturn a reading of a bill, which is no simple matter. Under the law of Parliament, bills are given three readings and move forward in a particular sequence. Each of those readings is an order of the Senate. Therefore, it seems to me that the proper question that the Senate should be addressing, rather than a ruling, which was not requested, is how the Senate overturns the reading of a bill. It is not a simple matter.

Senator Robichaud: Honourable senators, I move that we stand this order.

Order stands.

INTERNATIONAL BOUNDARY WATERS TREATY ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Corbin, seconded by the Honourable Senator Day, for the second reading of Bill C-6, to amend the International Boundary Waters Treaty Act.

Hon. Lowell Murray: Honourable senators, the sponsor of this bill, Senator Corbin, opened debate on second reading with his customary thoroughness and attention to detail. I thank him for that. We are also indebted to Senator Carney for having

drawn our attention to certain provisions of this bill that should cause us serious concern on at least two grounds: first, our duty to protect the historic prerogatives of Parliament where legislation is concerned; and second, our duty to preserve and improve upon our environmental heritage.

These two obligations are among the highest that Canadian parliamentarians owe to future generations, and I believe honourable senators take them seriously. It is for that reason that I suggest, in all earnestness, that we should give very careful consideration to substantive amendments to this bill when it gets to committee.

Let me say a word of historical background. In 1909, the Boundary Waters Treaty was concluded between Canada and the United States, Great Britain signing for Canada. Under that treaty, both parties are required to protect the natural flows or levels of the waters that our two countries share. The treaty created the International Joint Commission, which, for the many generations since, has been a model of bi-national cooperation.

In a nutshell, no work that might affect the levels or flows of water on either side of the border may be undertaken, except with the permission of the Government of the United States or the Government of Canada, acting within our respective spheres of jurisdiction, and the permission of the International Joint Commission.

To implement that 1909 treaty, in 1911 our predecessors in Parliament passed the International Boundary Waters Treaty Act. It is this act that Bill C-6 proposes to amend. Bill C-6 addresses two issues. The first is the process of granting or denying permission on the Canadian side of the border for a work undertaking obstruction, diversion, et cetera, that might affect the flows or levels of water.

•(1520)

Second, Bill C-6 addresses the question of bulk water removals from boundary waters, removals that Bill C-6 purports to prohibit.

Honourable senators, let me say a word about both of these issues. The government is at some pains to point out that with regard to the permissions for work, undertaking obstruction, diversion, et cetera, Bill C-6 merely formalizes a process now 90 years old. Under that process, if one wants to construct such a work on this side of the border respecting boundary waters, one must obtain whatever municipal or provincial permissions may be applicable. Then one must obtain any permission that may be necessary under other federal statutes, such as the Canadian Environmental Assessment Act or the Navigable Waters Protections Act.

One must then go to the federal government under this statute, and the federal government decides whether to send your proposal to the International Joint Commission. The IJC may then deny or, if it grants permission, may, and frequently does, impose conditions to its permission.

At that point, the federal government has a second opportunity to decide whether the work will go forward. The federal government grants its permission informally under the current situation.

As the government points out, the only change brought about by Bill C-6 would be that the final permission of the Canadian federal government would come by way of a licence issued by the government. Is this an improvement? The government thinks it is, and perhaps it is, although I think we should wait and see.

It would be possible under this bill, if passed, to have exceptions to the need to obtain a licence codified in regulations by fiat of the Governor in Council. As I say, this would be done by the cabinet under subclause 11(1).

The draft regulations were tabled some months ago at the Commons committee, but there is no mention of any exceptions to the licensing provision. That being the case, one wonders what exceptions might come in under this or some future government. We do not know.

It is also the case that by regulation, the cabinet will decide what constitutes a use, obstruction, diversion, or work. However, there is nothing in the draft regulations that were tabled some months ago to indicate how the government would define these terms. It is at least open to question whether this formalization is an improvement upon the present process.

The government has also gone to some pains to point out that this licensing regime does not apply to bulk water removals from boundary waters. The government points out that these are prohibited under subclause 13(1), and as spokespersons for the government never tire of saying, "the prohibition is a prohibition."

Honourable senators, this is true, but it is irrelevant. It is irrelevant because we read a few sentences later that the prohibition in subclause 13(1) "does not apply in respect of the exceptions specified in the regulations."

What exceptions will there be to this so-called prohibition? That is entirely in the hands of this and a future cabinet to decide by regulation.

The draft regulations tabled a few months ago specify as exceptions water used as ballast or for manufactured products or for humanitarian purposes, such as fire-fighting in the short term, but there it stops. What other exceptions may be brought in to the so-called prohibition? Who knows? No one knows. Those exceptions would be whatever this or some future cabinet decides.

This so-called prohibition, honourable senators, is the government's response to Canadian concerns about the export of our waters, at least in so far as the Great Lakes, Hudson's Bay and the St. John and St. Croix Rivers in New Brunswick are concerned.

Honourable senators, it will surely be clear to you that a prohibition qualified by the unfettered authority of the cabinet to make exceptions is not much of a prohibition at all. It must be clear to honourable senators that the unfettered authority to make exceptions by regulation would allow the government, at some future date, to negate the entire intent of this act.

With regard to possible exports of our water, I understand, and I think most of us accept the government's position, that this is an environmental issue and not a trade issue. As government spokespeople say, the place to protect our waters is "at the basin, not at the border." That it is an environmental issue. Canada's position is that we protect our waters as a natural state, that water in its natural state is not a tradable good or a commercial good and that we have full sovereignty over our waters.

The government has refused demands for an export ban on our waters for what seems to me to be the good and sufficient reason that export bans can only apply to tradable goods. If we were to bring in an export ban, it would be to acknowledge what we refuse to accept, namely, that water in its natural state is a tradable good.

Senator Carney is concerned, and I think she is right, that some exception to this prohibition brought in at some future date could, by bringing some boundary waters into commerce, place our waters under the ambit of NAFTA or other trade agreements as a tradable good. The Senate must foreclose that possibility when this bill goes to committee.

I want to remind honourable senators that the scope of the regulation-making authority in general in this bill is extraordinary. Indeed, I would say that it is excessive. The Governor in Council, by regulation, can, for example, specify what constitutes a use, obstruction, diversion or work for the purposes of the act. The Governor in Council will be able to define for the purposes of this act any word or expression used in clause 11 that is not defined in the act. The Governor in Council will be able to specify exceptions to the licence requirements and to the prohibition. The Governor in Council will be able to prescribe uses, obstructions, diversions and works to which a licence may not be issued. The Governor in Council will be able to list, and I suppose delist, the water basins to which the prohibition applies.

This is very broad and, I say, excessive regulation-making authority to give to the government, especially on a matter of this kind. This is a parliamentary issue to which we should pay serious attention.

I should like to read a paragraph written by the late Elmer Driedger, who was for a long-time Deputy Minister of Justice in this country and who created the legislative section of the Department of Justice in 1944. He wrote a book entitled *The Composition of Legislation, Legislative Forms and Precedents*. On the question of definitions, where we would give unlimited authority to the Governor in Council under this bill, Mr. Driedger states at page 200:

Authority to define words and expressions used in an Act may be objected to in Parliament if the authority can be used to enlarge or restrict the scope of the Act.

•(1530)

Honourable senators, in a number of very important particulars, the regulation-making authority given to the government with regard to definitions certainly could be used to enlarge or restrict the scope of the act.

Mr. Driedger then states:

If definitions are needed, it is generally better to have them in the Act. There are, however, situations where the need for flexibility may properly prevail.

He then goes on to give several examples that go nowhere near the broad power that will be given to the Governor in Council under this bill to define words, phrases and sentences in the act in whatever way the Governor in Council wants. It is obvious to me that one of the things we have to consider is to severely restrict the regulation-making authority that is proposed in this act and to amend the bill accordingly to put definitions right into the bill.

Recently, the Standing Joint Committee of the Senate and the House of Commons on the Scrutiny of Regulations reminded us that the Australian Parliament has taken serious objection to exactly this kind of regulation-making authority. I will read to honourable senators the words quoted by our committee from the Australian committee, which said that it is "a breach of parliamentary propriety if matters which should be subject to all the safeguards of the parliamentary passage of a bill are included in a legislative instrument."

Honourable senators, I simply conclude by saying that the regulation-making authority in this bill would be unacceptable from a parliamentary point of view. I believe it would also be irresponsible from an environmental point of view. I call upon the committee, when this bill goes to committee, to undertake a study of it in such a way as to make serious amendments to correct these serious deficiencies in the bill.

The Hon. the Speaker *pro tempore*: Is the house ready for the question?

Hon. Eymard G. Corbin: Honourable senators —

[Translation]

The Hon. the Speaker *pro tempore*: Honourable senators, I must advise the Senate that if Senator Corbin speaks now, it will have the effect of closing debate on second reading.

[English]

Senator Corbin: At the outset, I wish to thank the Honourable Senators Carney, Spivak, Murray, Nolin, as well as Senator Kinsella, who put questions to me after my second reading

introduction. The debate has been a good one and illustrates the fact that parliamentarians are taking their task very seriously.

[Translation]

I share, to some extent, the concerns raised by honourable senators during the debate. I should like to reassure them however, by stating that they may be reading more into the bill before us today than it actually contains. We will have the opportunity, as Senator Murray wished incidentally, to examine in more detail these questions and concerns during the committee study.

I am able at this time to answer some of the questions raised by Senators Carney and Spivak, among others.

[English]

When I use the word "we," I mean that I speak for the government in my capacity as the sponsor of this bill. We agree with Senator Carney that water in its natural state is not a good and not subject to trade obligations, which is the exact approach adopted by Bill C-6. Canada's position on bulk water removal is clear — it is to prohibit the bulk removal of water from all major drainage basins in Canada.

The exceptions are very limited. Senator Murray alluded to the regulations wherein the exceptions are enumerated. They do not go beyond what has been the practice over the last 92 years in terms of the way the bill has been administered. They are basically short-term safety and humanitarian uses, and for water contained in manufactured products produced in the basin, not for uses outside the basin.

Senator Carney suggested that Bill C-6 would permit bulk water exports where no such permission now exists. The senator is incorrect. The licensing provisions apply to bulk water diversions within basins and are separate from the prohibition provision which applies to diversions outside basins. The licensing regime — and I may be repeating myself — simply formalizes the existing approval process of the Government of Canada for projects under the Boundary Waters Treaty. As a result, the licensing-approval process will confer no new powers on the Government of Canada.

I will leave other matters for the committee to deal with during its examination of the bill. That is not to say that they are not important, but they do not preoccupy honourable senators at this time. I can assure honourable senators who will be attending those committee hearings that they will be provided a well-fleshed-out briefing book that will contain reactions to some of the comments we have heard in the Senate over the past few weeks.

Senator Lynch-Staunton: Probably watered down.

Senator Corbin: No, it will not be watered down. I can assure honourable senators of that.

It would be best for me to limit myself to those comments today. I am prepared to respond to specific points. However, in view of the way we do our business in the Senate, and I think we do it well, it would be preferable to examine those matters in great detail at the committee stage, if there is such a wish.

[Translation]

Hon. Roch Bolduc: Honourable senators, Senator Corbin claims that the government is not giving itself any additional powers in this bill. Yet clause 21, though I do not wish to contradict him, contains what I see as excessive powers. For example, the government may make regulations specifying what constitutes a use, obstruction, diversion or work for the purposes of the act. In addition, as Senator Murray has just pointed out, the government is going to be able to define the meaning of words.

● (15:40)

In our legal system, words are defined by legislation, a principle that is recognized and sacred. Here the government is giving itself the power to define them by ways other than legislative ones. Under the late Justice Pigeon of the Supreme Court, I trained for years on how to address these questions. I must admit that we went very far with that. I could give a number of examples. Good heavens, we have had three or four examples this year alone.

I do not want to make a speech, and am not entitled to. I could, for instance, point out that the Immigration Act contained what I would consider excessive regulatory powers under common law, a familiar expression in legal language. The Terrorism Act was also no slouch in this respect, believe me, and that also goes for the bill we are currently examining.

If the people who are so obsessed by the "rule of law," such as Senators Joyal and Grafstein, read this bill carefully, they would be conscience-stricken if it is passed as it is. Despite your saying that it is not giving the government any additional powers, it does indeed; in fact, it does so in what to my mind is a virtually unprecedented way.

Senator Corbin: The honourable senator could be right, but I have a totally different impression. Again, for all practical and administrative purposes, the bill does not include anything new. It merely formalizes practices, procedures and interpretations of certain terms that have been there for 92 years, but that were never specifically defined. The definition does not seek to add new elements. In fact, that would not be possible, because we would probably be *ultra vires*, given the content of the treaty. Senator Beaudoin knows more about this issue than I do. I understand your concerns. I asked many questions to the officials who briefed me on this bill. I am just as concerned as he is by a desire to protect our environment and our resources, not just for us, but for future generations.

I reread this bill several times. I was asked to sponsor it over two years ago. I had the opportunity to closely examine the notes

that were sent to me following my requests for information. I am not the absolute authority on this, but I can assure you that you read more into this bill than there actually is.

Senator Murray raised a valid point when he referred to Mr. Driedger's comments. This type of issue concerns me at times. I support the traditional and classical principle to the effect that we should not take anything away from the prerogatives of the two Houses of Parliament, or erode them. I have always endorsed that principle and I still do.

Following a proper review in committee, if it became clear that through the regulations cabinet is giving itself powers that normally belong to Parliament, I would probably be among the first ones to support Senator Bolduc. I do not have that concern after reading the documents and the answers to my questions. We could take a more in-depth look at this issue in committee. I would have no objection to doing so.

Senator Bolduc: I realize that the government or the executive branch must have some leeway. One could legally claim that the government does not give itself powers that are not delegated to it by Parliament. For my part, I believe Parliament is giving too many powers to the government. This is what I see in clause 21, among others. These powers are such that they give a lot of leeway to the government. The more leeway the government has, the less freedom for the public. It is important to realize that. The freedom enjoyed by the government creates a constraint for the public.

If the bill is passed, Parliament will have delegated. However delegating might give the government control over the legislation. The government would pass it by means of regulations. This is of great concern to me. Again, I note that this year there have been four or five bills which relied so heavily on regulatory authority that we might have been in France, where the executive passes legislation. This is ridiculous! It is government by order in council. People seem to be happy with so-called framework legislation. In Quebec City, we passed framework legislation. What does this mean? It is dangerous. In the French system, it is acceptable. Their system prefers that legislation be passed by the executive. That is their business. In our system, Parliament has always passed legislation and that is how it should continue. The government is giving itself considerable legislative and regulatory authority, in my opinion.

Senator Corbin: I have a copy of the proposed regulation, which is probably the same as the one introduced in the other place. It will be available to honourable senators when we study the bill in detail in committee. I will undertake to obtain a copy for all senators interested in this matter.

We have reached a certain point in the debate. We are agreed that the substance of the bill is not bad. It contains some controversial clauses. We want clarification on the regulatory authority. All this can be addressed in committee.

[English]

Senator Murray: Honourable senators, I should like to put a question to Senator Corbin because he has lived with this issue for several years.

Can the honourable senator tell us why the government would proceed by regulation to make exceptions to the prohibition against removal of bulk waters, rather than putting those exceptions right into the act? He has correctly pointed out, in quoting from the draft regulations, that the exceptions are few. Most of them are quite acceptable and quite understandable, but for one that gives me some pause. However, that is irrelevant for the moment.

If you put the details into the bill, then at least if there are to be any changes or additional exceptions made by the government, the government will have to come to Parliament to get that done.

I wonder whether the honourable senator understands or can tell us why the government wants to proceed by way of regulation, rather than statute, with regard to the exceptions to this very important provision prohibiting bulk water removals?

Senator Corbin: I thank Senator Murray for his question and for his concern. The exceptions comprise minor and obvious water uses that do not undermine the ecosystems of the water basins from which the removals are carried out. The government's view was that new situations can occur, but, again, not matters of major concern or major impact. These matters are of a technical nature. The government felt that these matters could be easily dealt with by way of regulation rather than having to come back to Parliament every year, every second year, every third year or whatever.

• (1550)

If the government has to come to Parliament to get proper authorization, as Senator Bolduc says, it will do so and it should do so, but I can assure the honourable senator that the intent of the draft regulations is to deal with these minor concerns. In any case, eventually Parliament has a look and a say in these matters, as Senator Murray knows.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

On motion of Senator Corbin, bill referred to the Standing Senate Committee of Foreign Affairs.

EXPORT DEVELOPMENT ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Setlakwe, seconded by the Honourable Senator Tunney, for the second reading of Bill C-31, to amend the Export Development Act and to make consequential amendments to other Acts.

Hon. Donald H. Oliver: Honourable senators, Bill C-31 would make a number of changes to the statute governing the Export Development Corporation. EDC, as it is usually known, is the Crown corporation whose mandate is to support and develop Canada's export trade. In 2000, EDC supported over \$45 billion in exports and foreign investments. It is big business and deserves our careful scrutiny.

EDC's operating revenues come from fees, premiums and interest on loans. It does not receive parliamentary appropriations. EDC is not subject to the Canadian Environmental Assessment Act, nor to the Access to Information Act. It is not regulated by the Office of the Superintendent of Financial Institutions, and it does not pay income tax. It can borrow at favourable rates on the credit of the Government of Canada.

In 1993, the Export Development Act was amended to broaden the corporation's mandate and to increase its powers. The act provided for a review of its provisions and operation five years after the 1993 amendments and every ten years thereafter.

In 1998, the government began its mandated review of EDC. As part of that review, the firm of Gowling, Strathy & Henderson was asked to prepare a report. The Gowling report was completed in 1999 and reviewed by the House of Commons Standing Committee on Foreign Affairs and International Trade, SCFAIT, and the Standing Senate Committee on Banking, Trade and Commerce.

The SCFAIT report responded to the 39 recommendations of the Gowling report. The Senate Banking Committee, on the other hand, chose to complement SCFAIT's study by concentrating on a few specific areas. Consequently, the Banking Committee's March 2000 report focused largely on an issue of importance to the committee: the lack of private sector involvement in the medium-term financing of Canadian exporters.

Today I should like to focus my remarks on only two issues: the need to have a rigorous environmental impact assessment of projects supported by EDC and EDC's relationship with other Canadian financial institutions.

Bill C-31 would require EDC to conduct an environmental impact review when undertaking projects or financing. The bill provides that before entering into a transaction related to a project, EDC would have to determine whether the project would likely have adverse environmental effects despite mitigating measures and, if so, whether EDC was justified in entering into the transaction.

The determination would be made in accordance with criteria set out in a directive issued by the EDC board. The directive could set out the decision-making criteria; define certain terms relevant to making the determination, such as "project," "transaction," "adverse environmental effects" and "mitigation measures"; and establish "exceptions" where EDC would not have to make an environmental determination. The exceptions could be defined specifically or according to the class of transaction involved.

Bill C-31 would also exempt EDC from the operation of the Canadian Environmental Assessment Act and direct the Auditor General to audit the design and implementation of the environmental directive at least once every five years.

First, let me say that I welcome the inclusion of environmental review provisions in EDC's governing legislation and that I fully support the provisions that would require the Auditor General to audit the design and implementation of EDC's environmental directive. However, I have a number of serious concerns about EDC's environmental review framework and the provisions of Bill C-31 in that regard.

In 1999, EDC established an environmental review framework. This framework set out the requirements and procedures for evaluating the environmental impact of projects requesting EDC support. As part of its response to the SCFAIT report, the government asked the Auditor General to audit the EDC environmental review framework.

The Auditor General's May 2001 audit found that the environmental review framework had:

...most elements of a suitably designed environmental review process and compares favourably with the policies of other export credit agencies around the world.

However, it also found important gaps in transparency, particularly in the areas of public consultation and disclosure of information, all critical elements of a credible environmental review process.

The audit noted that EDC did not subject its short-term insurance business to any type of environmental review in spite of the fact that short-term insurance constituted two-thirds of EDC's business. Although export credit agencies typically exclude short-term insurance from environmental review, the audit pointed out that EDC had not undertaken any type of examination to determine if this exclusion was justified.

To strengthen the environmental review framework, the Auditor General's report recommended, among other things, that EDC categorize its requirements for environmental review,

disclosure and public consultation according to the significance of the potential environmental impacts by adopting a system similar to that of other international financial institutions such as the World Bank Group's International Financial Corporation, and Australia's Export Finance and Insurance Corporation; and that EDC clarify the framework's statement of objectives, its coverage, the environmental standards EDC applies, and the environmental grounds on which it will decline to support projects.

Of equal importance was the audit's conclusion that the framework was not operating effectively. There were significant differences between the framework's design and its operation. For example, in a number of cases, EDC did not identify potential environmental risks, and decisions were based on incomplete information.

The following quote from the Auditor General's report illustrates just how serious these gaps are:

Our review of the Framework's operation found gaps at every stage of the review process: screening for environmental risk and influence, requesting and reviewing environmental information, approving projects, and monitoring. The weaknesses at each stage have a cumulative effect through the process. Only 2 of 25 projects complied with all key elements of the Framework. If risks are not identified, an environmental review is not performed, contract conditions are not imposed, and no monitoring is done.

•(1600)

Let me now turn specifically to Bill C-31. Given the gaps and problems with EDC's Environmental Review Framework identified in the Auditor General's report, I began my analysis of Bill C-31 by asking two basic questions: First, does Bill C-31 inspire confidence that EDC will apply its Environmental Review Framework rigorously; and, second, will Bill C-31 ensure that environmental protection is integral to EDC's operations?

Honourable senators, the short answer to both questions is no. Under Bill C-31, EDC could support a transaction even if it had adverse environmental effects that could not be mitigated. This strikes me as being patently wrong. The government's response to SCFAIT's report states the following:

As a Crown corporation, EDC is expected to reflect Canadian values on the environment in its activities overseas.

That statement is clear. How, then, can the Government of Canada justify allowing EDC to support projects that have serious adverse environmental effects when those effects cannot be mitigated? When did it become a Canadian value to support environmental degradation in other countries? Ideally, Bill C-31 should require EDC to reject support for projects that pose a serious threat to the environment. At the very least, the Canadian public should be given an opportunity to have input into whether EDC should or should not support such high-risk projects.

Furthermore, in my view, the provisions of Bill C-31 relating to the directive respecting the determination as to whether EDC will support projects having adverse environmental effects are fundamentally flawed. EDC's board of directors would have complete discretion to establish the contents of the directive, including the definitions used, the criteria that EDC would apply when making a determination, and the exceptions that would remove the board's obligation to make an environmental determination in the first place. As a result, EDC itself can establish its own terms of reference and the board of directors can exempt EDC from the requirement to make a determination with respect to any transaction. In essence, the board of directors can make the rules and decide when it does not have to obey them. I find this shocking.

Moreover, because Bill C-31 provides that the directive is not a statutory instrument, the publication and consultation requirements pertaining to the making of regulations would not apply to the making of the directive. Bill C-31 does not spell out any requirements for EDC to disclose information about the projects that it supports. While I understand that EDC must keep commercially sensitive information confidential, it must not use the cloak of corporate confidentiality as an excuse for failing to disclose environmental impact assessments and for declining to open up its environmental review process.

In 1999, SCFAIT took the view that:

...disclosure of environmental impact assessments which allows sufficient time for preventative action...should be the operating rule subject only to commercial confidentiality and viability requirements that the Government deems essential.

The committee further called upon EDC to:

...explore the option of creating an ombudsman post within its organization to respond directly and in a timely fashion to public inquiries and appeals regarding sustainable development impacts.

In its response to the SCFAIT report, the government stated that it:

...agrees that environmental assessments should be made public early in the project financing approval process, subject to competitive and commercial considerations, and subject to further discussion in the context of the elaboration of EDC's disclosure framework.

EDC has developed a corporate disclosure policy, but this policy could be changed at any time. Because EDC is not subject to the Access to Information Act, it is important that disclosure rights be spelled out clearly and they should be in the statute.

Before leaving the topic of the environmental assessment, I should like to say a few words about the environmental assessment process used by Australia's export credit agency, the Export Finance and Insurance Corporation, or EFIC. For environmental assessment purposes that corporation divides

projects into three categories: A, B and C. Category A projects are those likely to have significant adverse impacts that may be irreversible, affect vulnerable groups or ethnic minorities, involve large-scale displacement and resettlement, or affect significant cultural or natural heritage sites. For these projects, the bill requires project sponsors to prepare an environmental impact assessment, provide a 45-day public consultation period as part of its internal assessment, and publish details of category A transactions in its annual report. It seems to me that EDC may benefit from considering the Australian environmental review procedures.

In conclusion, I should like to turn to EDC's relationship with other financial institutions, particularly Canadian banks. As honourable senators know, in March 2000, the Standing Senate Committee on Banking, Trade and Commerce released its report on the Export Development Act. In that report, the committee focused on the lack of private sector involvement in the medium-term financing of Canadian exporters. Canada's banks play an important role in supporting Canadian exporters. However, it is generally agreed that they have a rather low level of involvement in medium- and long-term finance. The absence of a guarantee framework for "Consensus" medium- and long-term loans has been a long-standing complaint of the banks. Under OECD Consensus rules, export credit agencies can guarantee up to 85 per cent of medium-term loans. This guarantee reduces the risk for banks making such loans.

The Banking Committee report noted that EDC, however, does not guarantee the full percentage. The Gowlings report recommended that the government create a guarantee facility, using the Canadian Account, to foster greater bank participation in such finance if a sufficient number of banks participated in the program.

The Senate Banking Committee supported the inclusion of banks in medium-term export financing on a level playing field with EDC and called on the Government of Canada to:

...establish a guarantee facility that levels the playing field while not compromising EDC's ability to serve exporters, and to report back within six months on steps taken to achieve this objective.

SCFAIT also proposed that the government study the feasibility of a guarantee facility.

In response to the two parliamentary reports, both of the House of Commons and of the Senate, the Government of Canada stated that it also had concerns about the limited participation of Canadian banks in medium- and long-term export financing and agreed to study the proposal for a guarantee program for the banks. The Department of Finance and the Department of Foreign Affairs and International Trade stated that they would:

...consult with Canadian financial institutions to determine the current impediments to their involvement in trade finance, and review their interest in the proposed guarantee program.

The government also noted that a Consensus-compliant Canada Account loan guarantee program would require extensive evaluation to assess:

...the potential costs to government; the interest of the banks, net benefit to Canadian exporters; and implications for the long-term financial position of EDC.

In order to understand why the banks were absent from the medium-term financing, the Senate Banking Committee examined whether there was a level playing field between the banks and EDC. Several points are clear from our committee's report.

First, despite the fact that EDC and Canadian banks cooperate in a number of areas, EDC is both a competitor of and a guarantor to the banks.

Second, the Banking Committee noted that Crown corporations exist to fill in gaps in the marketplace by providing services that are not being provided by the private sector. If a service provided by a Crown corporation can also be provided by the private sector, the private sector should be able to provide that service. It seems to me that this would be good public policy. EDC has filled export financing gaps, but its position has also allowed it to impede competition.

The committee felt that EDC had not presented a persuasive argument as to why it should continue to be the de facto sole provider of Consensus-based loans in Canada. It was the view of committee members that the banks should have the opportunity to compete with EDC on a level playing field and that Canadian exporters would benefit from a healthy competitive environment.

•(1610)

A representative of a major Canadian bank told the committee that

Canadian exporters are sometimes at a disadvantage in deals where they are competing against exporters from other countries where ECAs are guaranteeing or insuring local banks. Because of the lack of an effective medium-term guarantee program, the Canadian exporter often has only one financing offer, the EDC offer, whereas the competing foreign exporter has a number of banks competing to put forward the best financing offer.

Competition will allow the market to decide whether the banks have a viable role to play in this area. Indeed, if an EDC bank guarantee scheme offers no benefits to exporters, they will not use it. If exporters do not use it, it will disappear.

Third, it would appear that Canadian exporters are underserved by EDC and by the market generally. Exporters could benefit from greater awareness and visibility of financing options.

Fourth, banks should be able to compete on a level playing field with EDC. The guarantee facility offered by EDC, its status

as a Crown corporation and its position as both a competitor for and an administrator of these guarantees, favours EDC. If EDC were to have a monopoly on medium- and long-term export finance, Canadian taxpayers and exporters could face a potentially dangerous situation.

EDC warned the committee that the guarantee facility recommended in the Gowlings report would cost taxpayers money and would not create the extra capacity that the banks say it would. It is difficult, however, to see how a guarantee facility, run on a cost-recovery basis and created only after a serious expression of interest by the banks, would make the present situation any worse.

EDC has further argued that providing a guarantee as suggested in the Gowlings report would give the banks a subsidy. This is hardly the case. It is a subsidy to the exporter, as is any EDC loan.

There are good reasons to facilitate bank competition in medium-term financing. Medium-term financing can be profitable. Profits from large corporation transactions would allow Canadian banks to make the necessary technological investments that support all bank customers. Furthermore, the development of trade expertise throughout the banking industry allows the banks to provide exporters with one-stop shopping for all their export-financing needs.

Unfortunately, honourable senators, Bill C-31 does not propose any legislative changes in relation to the guarantee program. Three separate reports have examined the issue, yet nothing has been done. It is time to level the playing field between EDC and other financial institutions, and this should be done immediately.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Setlakwe, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

[Translation]

CONSTITUTION AMENDMENT, 2001, NEWFOUNDLAND AND LABRADOR

MOTION ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Milne:

WHEREAS section 43 of the Constitution Act, 1982 provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

NOW THEREFORE the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto.

SCHEDULE AMENDMENT TO THE CONSTITUTION OF CANADA

1. The Terms of Union of Newfoundland with Canada set out in the Schedule to the *Newfoundland Act* are amended by striking out the words "Province of Newfoundland" wherever they occur and substituting the words "Province of Newfoundland and Labrador".

2. Paragraph (g) of Term 33 of the Schedule to the Act is amended by striking out the word "Newfoundland" and substituting the words "the Province of Newfoundland and Labrador".

3. Term 38 of the Schedule to the Act is amended by striking out the words "Newfoundland veterans" wherever they occur and substituting the words "Newfoundland and Labrador veterans".

4. Term 42 of the Schedule to the Act is amended by striking out the words "Newfoundland merchant seamen" and "Newfoundland merchant seaman" wherever they occur and substituting the words "Newfoundland and Labrador merchant seamen" and "Newfoundland and Labrador merchant seaman, respectively.

5. Subsection (2) of Term 46 of the Schedule to the Act is amended by adding immediately after the word "Newfoundland" where it first occurs the words "and Labrador".

Citation 6. This Amendment may be cited as the *Constitution Amendment, [year of proclamation] (Newfoundland and Labrador)*.

Hon. Gérald-A. Beaudoin: Honourable senators, I should like to say a few words concerning the proposed constitutional amendment to change the name of the province of Newfoundland to Newfoundland and Labrador.

Essentially, this involves a constitutional amendment for the purpose of changing the name of the province of Newfoundland. This affects solely the province of Newfoundland, and does not change its borders in any way. Thus this constitutional amendment clearly falls directly under section 43 of the

Constitutional Act of 1982, which states that a constitutional amendment affecting only one or several provinces may be enacted with the consent of the Parliament of Canada or of the province or provinces concerned. The Senate has only a suspensive veto by virtue of article 47 of the 1982 Constitutional Act.

In the case of concern to us here, the legislative assembly of Newfoundland passed a resolution on April 29, 1999, and the House of Commons followed suit on October 30 last.

The 2001 Constitution amendment does not affect the Quebec-Newfoundland border. In 1927, the Judicial Committee of the Privy Council brought down a decision on the question of Labrador. The Privy Council was to decide where the border lay between Quebec and Labrador and it brought down its decision on this.

In the 1949 Constitution amendment, which made Newfoundland Canada's tenth province, there is a reference to the 1927 Privy Council decision. Eminent legal experts have concluded that the legal issue is settled and constitutional case law is clear on this.

Honourable senators, I am in agreement with the proposed constitutional amendment for the purpose of changing the name of the province of Newfoundland so that it will henceforth be the province of Newfoundland and Labrador.

[English]

Hon. Charlie Watt: Honourable senators, I should also like to say a few words on this order. First, let me congratulate the people and the Government of Newfoundland and Labrador on this proposed amendment to the Constitution of Canada that provides for the striking out of the words "Province of Newfoundland" and substituting the words "Province of Newfoundland and Labrador." This motion has been a long time in coming and reflects a reality and pride for the Province of Newfoundland and Labrador.

There is another reality that I wish to bring to honourable senators' attention; that is, the mobility of Inuit living on both sides of the unmarked boundaries of Northern Quebec and Western Labrador. For generations, Inuit people have freely moved back and forth, trading with each other and carrying on their traditional activities of hunting, fishing and trapping. Inuit people have socialized and intermarried. They have camped at the sites of their own choosing on either side of the invisible boundary.

•(1620)

All of this takes place without regard by the Inuit for the unmarked boundary separating the two provinces in the far North. I trust that, notwithstanding differences in the provincial regulations and the formal renaming of the Province of Newfoundland and Labrador, the traditional movements of our Inuit people will not be restricted or interfered with in any way as a result of this amendment.

We take for granted that the rights of the Inuit to carry on their traditional activities necessary for their livelihood will continue on both sides of the boundary, as has been the custom for eternity.

Inuit people in recognized settlement areas will continue their traditional pursuits, respecting, where possible, the differing jurisdictions of the provinces as they may apply to those settlements.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

YOUTH CRIMINAL JUSTICE BILL

REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the tenth report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill C-7, in respect of criminal justice for young persons and to amend and repeal other Acts, with amendments) presented in the Senate on November 8, 2001.

Hon. Lorna Milne moved the adoption of the report.

She said: Honourable senators, I rise this afternoon to outline the details of the tenth report of the Standing Senate Committee on Legal and Constitutional Affairs.

Hon. Anne C. Cools: Honourable senators, I rise on a point of order. I was not present in the chamber on Thursday, November 8, 2001, when this report was presented. Therefore, I looked to the record to inform myself of what happened in the chamber at that time and saw, on page 1679 of the *Debates of the Senate*, an astounding thing. It says very clearly, "Youth Criminal Justice Bill Report of Committee—Point of Order." The Honourable Senator Milne says:

Honourable senators, I have the honour to present the tenth report of the Standing Senate Committee on Legal and Constitutional Affairs, which deals with Bill C-7, in respect of criminal justice for young persons and to amend and repeal other acts.

Then the astounding thing happens. There is an indication on the record that I have never seen before. The next speaker is "A Clerk at the Table." It is my understanding that the *Debates of the Senate* records the words of senators, senators being the only persons allowed to take part in debate. Something is quite wrong with all of this. It says "A Clerk at the Table" and it seems as though the clerk at the Table has appropriated the task of making the report of the committee, which is extremely unusual.

Senator Lynch-Staunton then interrupts and asks a few questions, after which the clerk at the Table continues.

This strikes me as very strange, very unusual and quite out of order. Could His Honour help me with that? I have never before

seen in the *Debates of the Senate* "A Clerk at the Table." Who is "A Clerk at the Table" in a parliamentary proceeding?

The Hon. the Speaker: Honourable senators, the reading clerk commenced to read the report of the Standing Senate Committee on Legal and Constitutional Affairs. Unfortunately, we were absent copies of the report for distribution at that time. Therefore, due to the technical nature of the report, interpretation was not available. The interpreters, quite properly I believe, did not feel that they should be interpreting in the normal course without the text. Therefore, a decision was made to defer the matter until such time as the report was distributed, which it was later on that day. When it was, leave was granted to deal with it.

Accordingly, I do not believe there is any question of the matter being out of order. With regard to a clerk participating in debate, that was not the case. The clerk was simply reading the report.

Senator Cools: I understand that there was a problem with respect to copies of the report, which problem has subsequently been rectified. However, my point still stands. It seems to me clerks at the Table are not supposed to be duly recorded in proceedings since they have no credentials to participate in the debates of this chamber.

The Hon. the Speaker: The Table was not participating in debate. The Table was, as always, simply reading the item on the Order Paper to ensure that all honourable senators were aware of which item we were on.

Senator Cools: The record clearly shows, honourable senators, that the clerk at the Table gave the report of the committee. I accept the explanation, but I am just saying for the record that this is what the record shows. The record does not show what His Honour has described. The record shows that a clerk at the Table is making a report of a committee. That is how it reads and that is the point I was trying to make. I am satisfied and happy that it was a misunderstanding and that the matter has been corrected, but as it reads, that is how it looks.

Senator Milne: Honourable senators, I rise this afternoon to outline to you the details of the tenth report of the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-7, the Youth Criminal Justice Act.

As all senators on the Standing Senate Committee on Legal and Constitutional Affairs will certainly agree, the issues surrounding youth crime are complex, frustrating and perplexing, indeed, gut wrenching and emotional. Everyone who sat through the countless hours of hearing over 60 witnesses will certainly agree.

Your committee worked extremely hard on this bill, usually sitting late into the evening, and on three days a week. I will get into some of the details of the report in due course, but I want to provide you with a bit of the background of the proposed Youth Criminal Justice Act.

This bill was first introduced in the last Parliament as Bill C-3. The House of Commons held extensive hearings on Bill C-3, during which it heard from many groups. As a result of those hearings, the bill was extensively redrafted after the last election. I believe that 167 amendments to Bill C-3 were incorporated into Bill C-7. Those 167 amendments represented a concerted effort by the government to balance the diverse and often directly contradictory evidence that the House of Commons committee heard.

• (1630)

As Bill C-7 is fundamentally an amended version of Bill C-3, the House of Commons decided not to hold extensive hearings on Bill C-7. As a result, it became the responsibility of the Senate committee to hear from the Canadian public and gauge its reaction to the changes that were made between the two bills.

As I have already noted, the committee heard from over 60 witnesses, many of whom had appeared before the House of Commons committee on Bill C-3 and a substantial number who had not been heard from before.

With some notable exceptions, the witnesses believed that Bill C-7 is a substantial improvement over the current Young Offenders Act, and that the amendments that were made to Bill C-3 significantly improved the bill and resolved many of the concerns that were originally raised. There is no doubt that not everyone got the amendments they were looking for when Bill C-7 was introduced; but, given the fact that there are such diverging views on this subject, unanimity was, and still is, impossible.

Your committee has adopted a number of amendments. I want to go through them with honourable senators and explain each one.

The first amendment is to clause 2 of the bill. It inserts a clause stating, in part:

An object of this Act is for the law of Canada to be in compliance with United Nations Convention on the Rights of the Child...

The amendment goes on to say that the YCJA is to be interpreted by the courts in light of that object. The committee heard extensive testimony from witnesses who argued that since Canada has not yet implemented this convention, the federal government should take the opportunity to do so under this act.

Honourable senators, given the fact that the convention deals with many issues other than those of youth justice, full implementation could not realistically be achieved in this bill. As a result, the committee chose to insert one more interpretation clause to the many that already exist in the bill, in the hopes that the UN Convention on the Rights of the Child will affect the jurisprudence in youth justice issues.

The second amendment to clause 2 must be looked at in conjunction with amendment number six of the committee's report to clause 61 because one is consequential to the other.

Under the YCJA, as referred to the committee, any child 14 years of age or older who is charged with a presumptive offence as defined in clause 2 was presumed to receive an adult sentence. Under clause 61 of the bill, the provinces could choose to raise the minimum age at which the presumptive offence applies to as high as 16 years of age.

By changing the definition of "presumptive offence" in clause 2 and deleting clause 61, these two amendments increase the minimum age for presumptive offences from 14 to 16 and, as a result, eliminate the ability of any province to change the minimum age at which the presumptive offences will apply.

The final amendment to clause 2 is also to the definition of "presumptive offence." A young offender can be presumed to be sentenced as an adult under the presumptive offence provisions if he or she commits a third serious violent offence. The amendment proposed by your committee allows the attorney general of a province to refuse to treat a third serious violent offence as a presumptive offence. If an attorney general elects in writing to make this choice, the youth will not be sentenced as an adult.

I move now to clause 19 of the bill. Your committee recommends that an additional subclause be added. Clause 19 deals with conferences. Conferences are meetings convened by a judge, a police officer or other justice system official and are designed to provide advice to those who have to decide how a young person should be handled if they get into trouble. The participants in the conferences can include parents, teachers, doctors, social workers and anyone else who provides help and support to youth.

Under the bill, the provinces are given the ability to set out the rules that govern how conferences are convened and the procedures followed at the conference. The proposed amendment mandates that any rules established by the provinces under this clause must first allow for the young person to attend a conference in person and bring a lawyer; and, second, comply with the principles of procedural fairness and natural justice. The amendment is designed to ensure that a young person can fully and fairly participate in the conferences.

The third clause to be amended is clause 25. The committee also recommended that subclause 25(10) be deleted from the bill. This subclause merely stated that nothing in the YCJA prevents a province from establishing a program designed to recover the costs once proceedings against the youth are complete. The committee decided that this subclause was superfluous because it is merely permissive and some provinces already have these types of programs.

Your committee also recommends two amendments in relation to Aboriginal issues. The first is to the sentencing principles contained in clause 38 of the YCJA. The amendment would dictate that judges consider all sanctions other than custody that are reasonable in the circumstances, with particular attention to the circumstances of young people. This is merely an addition to the principles that are already laid out and does not take away from any of those already listed in clause 38.

The second amendment with respect to Aboriginal youth is to clause 50. This clause states that, with certain exceptions, Part XXIII of the Criminal Code, which covers sentencing, will not apply to young people. The amendment adds section 718.2(e) to the list of sections that are still applicable under the YCJA. Section 718.2(e) states that when determining sentencing, all sanctions other than imprisonment should be considered, particularly with regard to Aboriginal offenders. This amendment directly responds to testimony that the committee heard regarding the *Gladue* decision in the Supreme Court of Canada, which outlined important principles when sentencing Aboriginals. By allowing section 718.2(e) to stay alive under the YCJA, the committee hoped to incorporate some of the *Gladue* decision in the legislation.

The next amendment is to clause 61. It was a consequential amendment that I spoke of when I spoke to clause 2, which basically raises the age to 16.

Under the YCJA, it is possible for young offenders to be kept in the same institutions as adults under certain circumstances. Some committee members felt that this did not reflect the UN Convention on the Rights of the Child. As such, the amendments to clause 76 make it mandatory that if a youth is housed in a correctional facility where adults are being held, the youth will be kept separate and apart from the rest of the population no matter how few youth are being kept at that facility.

Moving now to clause 110, which deals with the circumstances under which the name of a young offender may be published, there has been some confusion over the exact effect of this amendment. I want all honourable senators to be absolutely clear about what this change really does entail.

The change is made to the beginning words of clause 110(2). It does not change the subparagraphs (a), (b) and (c) that follow. The change to the opening words inserts a public interest test into the section. As a result, the name of a youth who is dealt with under the YCJA can only be published if one of (a), (b) or (c) are met and a judge determines that the release of the information is in the best interest of the public.

• 1640 •

The amendment makes it more difficult for those who, for example, have committed a third, serious, violent offence to have their names published. Not only will they have to commit the presumptive offence, but a judge must also think that it is proper for the name to be released.

The committee also proposes an amendment to clause 125 of the proposed act by inserting an additional subclause after clause 125(6) and then renumbering subclauses 125(7) and 125(8). The insertion proposed makes it mandatory that the court release information to representatives of school boards if certain conditions are met. The information must be released if it is necessary to ensure compliance with a probation order, if it is needed to ensure the safety of staff or students at a school, or if

the disclosure is needed to facilitate the rehabilitation of a young person. If any of those circumstances are met, a judge has no discretion and must order the release of the information.

As the bill is currently drafted, school boards can still obtain this information but the judge retains the discretion to release it or not, as the circumstances require.

An amendment to clause 146 of the bill, our tenth amendment, recommends that clause 146(6) of the proposed legislation be deleted. This clause states that a court has the right to admit into evidence a statement obtained from a young person, even though there may be technical irregularities in the manner in which the report was obtained.

By way of background, clause 146 is a short directive on how to handle statements made by young offenders. In the clause, there are many strict rules that are designed to give enhanced procedural protection to youth, as is required under the Charter.

Currently, the vast majority of statements by youth are not admitted as evidence because of technical breaches in the law and other rules. Subclause 146(6) adds some flexibility to the situation by allowing the statements to be admitted if there are technical irregularities but only — and I express only — if the principles of enhanced procedural protection for youth are maintained. In the unamended bill, that was judged a narrow window of opportunity to allow more statements to be admitted into evidence. The amendment proposes to shut the window and demand absolute adherence to the strict rule.

The final amendment, honourable senators, concerns a review period. The amendment demands that three years after the proposed act comes into force, and every five years thereafter, the Minister of Justice is to review the effectiveness of the proposed act and report to Parliament. Furthermore, that report is to be reviewed by committees of both the Senate and the House of Commons or a joint committee. The committees that review the proposed YCJA are then to report to their respective Houses on their findings.

Honourable senators, as Chair of the Standing Senate Committee on Legal and Constitutional Affairs, this was a long and exhaustive process. I have tried to make as fair and full an explanation of the 13 different amendments to 11 different clauses of this bill as possible. However, I would be less than fair or frank with this house and with myself if I did not also tell you that I personally voted against every single one of these amendments. I will also tell you that, although I am moving the adoption of this report as the Chair of Standing Senate Committee on Legal and Constitutional Affairs, as an individual senator I plan to vote against the adoption of this report.

Senator Cools: Honourable senators —

The Hon. the Speaker: I would ask Senator Cools to take her seat, please.

I have just been advised by the Table that the time for Senator Milne's speech has expired. Before we can proceed with any matter further to her comments, we require leave to extend her time.

Is Senator Milne asking for leave?

Senator Milne: Honourable senators, since I did not support any of these amendments, if questions are to be answered properly they should be directed to those senators who made the amendments. I will not accept questions.

POINT OF ORDER

Hon. Anne C. Cools: Honourable senators, I rise on a point of order. The extension of time is irrelevant; the honourable senator did not address it.

The Hon. the Speaker: There is no time left. Another senator may wish to rise and speak. I know Senator Beaudoin was going to speak. Senator Lynch-Staunton also wishes to speak.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I should like to have a ruling on whether it is proper procedure for a member of this chamber to move the adoption of a motion and then claim that she will not support her own motion. I find that contradictory. Perhaps the honourable senator would want to remove herself as the sponsor of the report and allow the deputy chairman to sponsor it.

The honourable senator is in an awkward position, and I do not think she should be put in that position. I admire her honesty. I think she explained the amendments extremely well and impartially, but we should save her any embarrassment or misinterpretation. To find her voting against her own motion is something we do not want to happen here.

Hon. Nicholas W. Taylor: Honourable senators, on the point of order, the Honourable Leader of the Opposition may recall a time three years ago when the Minister of Energy was here and Senator Ghitter, from Calgary, was committee chairman that Senator Ghitter did not carry the majority on a report to be filed with the Senate, naturally, because it was a Liberal-dominated committee. Senator Ghitter did exactly the same thing that Senator Milne has done here today.

We found out at that time, after going through the legal precedents at that time, that there is no such thing as a minority report. The chairman has no choice but to report to the Senate, as Senator Ghitter did. Senator Ghitter announced that he would vote against the motion, which he did, and he had an honourable right to do so.

This has happened before. It is not new at all for a chairman. That this chairman happens to be in the majority party does not matter. The chairman is not allowed to make a minority report but can then turn around and vote against it.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, that is not the point.

The Hon. the Speaker: Honourable Senator Cools, on the point of order.

Senator Cools: I usually know where we are, honourable senators; however, I have a problem that I would like resolved. I am not too sure how we can resolve it. Perhaps this point of order will resolve it.

We have been told two things here. We have been told that the chairman has moved a report in which she has no confidence. In essence, she has said that any questions about the report and those amendments should be directed to someone else.

As a point of order, I should like to know who is the "someone else" to whom we should direct our questions about the committee's mindset as it arrived at these particular decisions. I should like to hear that answer as a matter of order.

●(1650)

The second question that I should like answered as a matter of order is the fact that a committee is, in point of fact, a delegate of the Senate. Any of the parliamentary authorities on committees could tell you that. People like Sir Reginald Palgrave would have said that in their works. It is a well-known fact that the Senate delegates or commits a bill to a committee — that is the word, "commit" a bill to a committee — for the purposes of seeking the assistance of the committee in the consideration and study of the bill. It is not a personal matter at all. The Senate, in point of fact, asks the committee under a reference, under an order, to study a matter to assist it.

My question, then, as a matter of order, is this: Does the chairman's position constitute assistance to the Senate?

The Hon. the Speaker: Are there any other senators wishing to comment? If not, the question that has been put to the Chair is this: Is it in order for the proposer of a motion to not vote for the motion that he or she has proposed?

The fact of the matter is that this is after the fact. Senator Milne moved the adoption of the report. We have not put the question. I listened to Senator Taylor, and I remember the same circumstance that he does. However, to be absolutely certain, I will review the record.

In terms of Senator Cools' points, I am not sure that I can do more than refer Senator Cools back to Senator Milne's comment, which, as I recall, was that the proposers of the amendments are the people who should respond to the question.

This bill is at report stage. I do not think that I would be indicating that we should open up the procedures that we have in our rules and have provided for in terms of putting questions as suggested by Senator Milne. She has indicated she is not prepared to answer questions. In any event, her time has expired. Accordingly, I do not see that as a valid point of order.

Senator Lynch-Staunton: I do have a valid point of order, I believe. When His Honour does come back to the chamber with his thoughts on this matter, I should like to find a way to not have what I find to be a most distressing event, that of having a chairman of a committee say, "I am not prepared to defend this report; ask the people who are responsible for it." I would have thought a chairman of a committee feeling that strongly about a report, and I respect her for that, would have delegated the responsibility of defending the report to someone who is more enthusiastic than she is. Otherwise, we could have read the report. We just had a narrative. These are important suggestions to a very important, controversial bill. To be told by the chairman, "I am not prepared to defend this report because I do not believe in it, so go and find the people responsible for it," I find irresponsible.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of all senators, I would like to say that even though the chair of the Committee on Legal and Constitutional Affairs has told us that she is not prepared to support the tenth report, she nonetheless wrote it and gave a fairly accurate description of the amendments it contained. The fact that she does not wish to reply to questions on the amendments is not really that important because the debate is open on the committee's report.

An honourable senator will probably adjourn the debate and those senators who moved amendments in committee will have an opportunity to do so here in a debate which will take place and in which all senators will have an opportunity to put questions to those who moved these amendments.

[English]

Senator Kinsella: Honourable senators, I draw your attention to rule 98, which states:

The committee to which a bill has been referred shall report the bill to the Senate. When any amendment of the bill has been recommended by the committee, such amendment shall be stated in the report.

We are clear, therefore, as to how we in the chamber receive the report and the amendment contained therein, as is the case in the matter before us right now.

Rule 99 states:

...the Senator presenting the report shall explain to the Senate the basis for and the effect of each amendment.

I listened carefully to the chair of the committee, and I was fairly satisfied with the explanation. I was about to ask a question, but I have heard from other senators who have questions and were in committee and studied this bill more profoundly. I am wondering if there is an obligation to explain

amendments that goes beyond simply getting up and explaining them.

Although I was satisfied with the presentation, I did have a question. Time ran out. I would think the honourable senator who has the floor is the one who can exercise the right to ask the house for leave to extend time. I do not think we can impose that upon another senator.

Perhaps this is something that needs to be looked into. I think that all honourable senators are interested in understanding this bill and these amendments that have been proposed by the members of the committee. That is the real issue here. The implication was that perhaps the deputy chair could explain it if the chair could not.

I think we must look very carefully at rule 99 because it does say there is an obligation to explain. There are many senators here this afternoon who have not had these amendments explicated fully enough. How do we get the fuller explanation being sought?

If it is helpful, honourable senators, that is the rule that I think speaks to the obligation to have amendments contained in a report explained.

Hon. Eymard G. Corbin: I wish to make two brief comments.

First, the chair of the committee is the messenger of the committee. We must not forget the process. The bill is adopted clause by clause. It may be or not be modified. At the end of the process, the chair of the committee puts the following question: "Shall I report the bill?" If the bill is unamended, it is unamended. If the bill is amended, it is as amended. That senator is the messenger of the committee. That does not bind her ideologically, morally, personally or in any other fashion to the contents of the report. She is still a free agent as a member of this house to dispose of the report as she sees fit when she rises in her place.

Second, on the explanations and the point made by my friend from Fredericton, Senator Kinsella, I remember that there was a time in the other place when one went to the official record if one wanted explanations. The official record in this case is not only the report but also the minutes and the transcript of the committee. That is where one goes to find out who made motions, explained and so on because the report does not name persons. It is the report of the committee as a whole. If one wants details, who was the author of the amendment or who spoke for or against it, the transcript is very much an official document. It is not physically attached to the report, but it is part of the report, the entire thing is together.

•(1700)

Therefore, as much as I, from time to time, put questions to honourable senators who make committee reports, I know for a fact that I can get my answers by looking at the record and that is what I do.

Senator Cools: Honourable senators, I very much appreciate what Senator Corbin had to say. However, we must add to that the fact that, at the end of the day the committee speaks with one voice and every single member of the committee is bound by the decision of the committee, just as they are with any decision of the Senate chamber.

Some Hon. Senators: No, no!

Senator Cools: Oh, yes, they are. Committee members may change their minds later, as they go along, and it is entirely possible that a member can be persuaded in the process of the debate that their judgment was erroneous, incorrect or improper. However, that does happen and the record is replete with examples of that.

What is unusual in this instance is for a chairman of a committee, in presenting the report, to say that he or she has no confidence in the report and to express there and then, at that time, that they will not be voting for it. That is not subjecting themselves to debate or to persuasion. The argument cannot be made that the chairman of the committee, who speaks for the committee, was persuaded to see a different point of view during the process of debate. The fact of the matter is that the committee speaks with one voice.

There have been many novel innovations in the last many years. We have seen majority and minority reports. Much of that is meaningless. There is but one report of the committee, and there is but one decision of a committee; that is the decision that the Honourable Senator Lorna Milne reports.

I understand, I am sympathetic and I am prepared to be persuaded by the honourable senator, if she should speak to us, that she is so distressed by the process that she wants to dissociate herself from the report. However, that is a matter that should be debated. If she is so distressed and wants to dissociate herself from the committee report, that is something that we should try to understand having been informed of the reasons why. Those reasons should also form part of the debate.

We must clearly understand that a committee is a delegate. The chairman of the committee is a delegate of the Senate. The first duty of that chairman is to bring information forward to this chamber so that senators can debate information. Who knows, she might persuade some of us. Obviously, if she is free to change her mind, so are the other individuals on the committee. I would have thought that a good chairman would be willing to try to persuade us politically, in debate, to see the matter from her point of view. Therefore, want to be subjected to that attempt at persuasion. I would encourage Senator Milne to attempt to persuade me to her point of view. She may be successful; she might surprise herself.

Finally, honourable senators, what we have been told here is that debate is inconsequential. Rule 99 is consistent with

parliamentary jurisprudence, practice and the custom and usages of Parliament. What Senator Milne has done is not.

Rule 99 clearly points out that the senator presenting the report shall explain — not “may explain” — to the Senate the basis for and the effect of each amendment.

Senator Robichaud: This is exactly what she did.

Senator Cools: I am prepared to debate, but you have to debate. About rule 99 —

The Hon. the Speaker: Order. Honourable senators, there is quite a bit of noise. I would ask Senator Cools to come to her point. I have other senators wishing to intervene. I have the gist of the intervention, but I would ask Senator Cools to be brief.

Senator Cools: Honourable senators, rule 99 not only anticipates a suitable and proper explanation from the chairman of the committee, it mandates and orders such an explanation.

My recommendation to the Senate is that if the committee chairman finds herself so stricken or concerned that she cannot make that suitable explanation as required by rule 99, then the solution is simple: Appoint another senator who will make the suitable explanation on behalf of the entire committee.

Senator Taylor: I hate to disagree, and I do not believe I have to in this instance. It seems to me that by the time the honourable senator, my old seatmate, got to the end of her intervention, she was in accord with what was happening anyhow.

I refer honourable senators to Beauchesne's, 6th edition, paragraph 873 that says:

The report of the committee is signed by the Chairman, or in the absence of the Chairman, by the Vice-Chairman or any other member of the committee.

That is about as broad as you can get.

The Chairman signs only by way of authentication on behalf of the committee. Therefore, the Chairman must sign the report even if dissenting from the majority of the committee.

In other words, the chairman has presented and signed the report. She has said she dissents. What are we going to do, hang her by the thumbs?

The Hon. the Speaker: Honourable senators, I believe I have had a good bit of help from you in terms of the request for a ruling pursuant to Senator Lynch-Staunton's intervention.

I believe Senator Milne made the motion properly, spoke properly, but ran out of time. At this point, I will accept a motion to adjourn the debate and I will be happy to do my best to come back with a ruling on this matter at the earliest possible moment.

On motion of Senator Beaudoin, debate adjourned.

[Translation]

OFFICIAL LANGUAGES ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Gauthier, seconded by the Honourable Senator Lapointe, for the second reading of Bill S-32, to amend the Official Languages Act (fostering of English and French).—(*Honourable Senator Poulin*).

Hon. Marie-P. Poulin: Honourable senators, it is with great pleasure that I stand before you today to support Bill S-32, to amend the Official Languages Act.

The purpose of this bill is to reinforce the federal government's commitment to French- and English-speaking minorities in Canada, and to foster the full recognition and use of French and English in Canadian society. These measures will be taken in accordance with subsections 16.(1) and 16.(3) of the Constitution Act, 1982.

Honourable senators, it is in the socioeconomic context of globalization that I am supporting this bill, which would give the government's linguistic commitments greater weight. The bill requires that the government, and I quote: "take the measures necessary" to attain these objectives.

Replacing section 41 of the Official Languages Act with the wording proposed in Bill S-32 will reinforce the government's intentions with respect to its linguistic policy.

• (1710)

Hon. Jean-Robert Gauthier: Honourable senators, I should like to thank all those who supported the bill and took part in the debate.

I recognize that the question is complex and that it has serious repercussions for Canada as I see it. Bill S-32 is, in a way, an initiative intended to promote debate. You will understand my frustration. Since 1988, I have been trying to have this legislation benefit official language minority communities.

The problem of assimilation is a serious one. Certain problems affect the development of communities and others concern day to day communications. You have often heard me speak of a national television network for francophone communities.

If we do not see each other, interact and agree, in the end we will be seen as no longer existing. There are the naysayers who claim that the minorities are disappearing and that they must be forgotten. That is wrong. With good legislation in place to protect linguistic minorities, I am convinced those who speak negatively of minorities will be proven wrong.

Yesterday I received a letter from the Minister of Justice. A few months ago, I had written her to try to find a solution to the problem relating to section 41, specifically to part VII of the act, which is not judiciable, which is excluded. We cannot go before the courts to defend our rights. We are told the language of section 41 is declaratory. The minister uses other terms in her letter. She says it is not a legal, but rather a political matter.

You will understand that if people continue to speak in terms that are hard to interpret, and communities cannot defend their rights before the courts, we are at a disadvantage in many regions.

We could perhaps take a look at the New Brunswick Official Languages Act. Bill S-32, which I have introduced, refers to the measures that must be taken to help official language minority groups.

We could draw on the New Brunswick legislation and add positive measures. There are all sorts of ways of strengthening section 41 and give it teeth. I am neither expert, lawyer nor constitutionalist, but I know that, with political will and help from my colleagues in the Senate, a solution may be found and amendments made to the Official Languages Act. This is the reason for Bill S-32.

I know that it is not the end of the world. However there are no doubt regulatory means that might reinforce the legislation. The Senate committee which will be examining the bill will certainly have the benefit of legal and constitutional opinions.

In addition, the Minister of Justice could come and explain to us why she believes that clause 41 is a political issue. I should like to take this opportunity to thank all honourable senators and tell them how pleased I am of their support.

Hon. Eymard G. Corbin: Would Senator Gauthier object to the letter he has received from the Minister of Justice being circulated?

Senator Gauthier: A copy will be sent to all of the senators.

Hon. Jean Lapointe: Honourable senators, Senator Gauthier knows that I have supported him from the start. I very much liked his idea of creating a television network for the minorities, whether francophone or anglophone, whether in Manitoba or elsewhere in the country. One could think for instance of the anglophones in the Eastern Townships or Quebec City, who are a minority. I am sure that this network will be as valuable as CPAC.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

On motion of Senator Gauthier, bill referred to the Standing Committee on Legal and Constitutional Affairs.

● (1720)

THE SENATE

TIME ALLOTTED FOR TRIBUTES—INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of Senator Lapointe, calling the attention of the Senate to the time allotted for tributes.

Hon. Lise Bacon: Honourable senators, my speech will not be long. Our colleague Senator Lapointe demonstrated courage and boldness when he asked us to restrict to some extent the tributes made to some of our colleagues, be they with us, or having left us.

I completely agree with him. In other legislatures, not every member pays tribute to colleagues on the occasion of a death, departure, retirement or other type of ceremony. Very often, both government and opposition leaders are the ones who speak, as well as one or two senators who may have been particularly close to the person to whom tribute is being paid. I completely agree that this house loses enough time during certain debates. We could be more diligent in some of our speeches.

On motion of Senator Gill, debate adjourned.

LA FÊTE NATIONALE DES ACADIENS
ET DES ACADIENNES

DAY OF RECOGNITION—MOTION—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Losier-Cool, seconded by the Honourable Senator Léger:

That the Senate of Canada recommend that the Government of Canada recognize the date of August 15th as Fête nationale des Acadiens et Acadiennes, given the Acadian people's economic, cultural and social contribution to Canada.

Hon. Viola Léger: Honourable senators, it is my great pleasure to rise in support of the motion presented by my colleague the Honourable Senator Losier-Cool, to recommend that the government recognize August 15 as the Fête nationale des Acadiens et des Acadiennes.

I am also very honoured to be able to do so here as a senator from Acadia. Since the time of the illustrious Senator Pascal

Poirier, the first Acadian to sit in this house, Acadian senators have always showed a deep and sincere commitment to this assembly and to the Acadian people. I have every intention of following in the footsteps of my predecessors, so that Acadia will continue to get increasingly stronger, vibrant and dynamic.

The motion before us today is very eloquent. Acadia can indeed take pride in its contribution to Canada's economic, cultural and social vitality. Acadia came to existence in 1604. Slowly, with the modest means available to it, it took roots. It has grown and it continues to grow. Even though Acadia experienced a great tragedy, Acadians have always had great confidence in life. They were able to keep their heads high, because their heart is in the right place and because they have intestinal fortitude. In the wake of the unfortunate incidents that marked their history, they decided to get together and celebrate their feeling of belonging. They wanted a celebration that would be a testimony to their solidarity, perseverance and confidence in the future.

This is how, at a national convention held in Memramcook in 1881, delegates from every corner of Acadia chose August 15 as Acadia's national holiday. Since then, Acadians have always celebrated their national holiday with great enthusiasm. Every year, our holiday is marked by a lot of noise when Acadian men, women and children walk on the streets to affirm their presence in America, their French pride and their *joie de vivre*.

The Acadian adventure has been going on now for close to 400 years. Planning is already underway for large-scale celebrations to mark this 400th anniversary in 2004, and I am sure that they will be a source of great pride.

Over its 400 years, Acadia has helped to make Canada the magnificent country it is today. I would particularly like to speak to you about its cultural contribution to our Confederation.

If there is one area in which the Acadian people have distinguished themselves in Canada and throughout the world, it is through culture. I am an active participant in that culture and I know whereof I speak. I have appreciated and experienced all the richness and diversity of artistic expression in Acadian. Over the centuries, hundreds of Acadians have sought, in and through their art, to define the soul of Acadia. Whether they are still living on their ancestral lands or have taken up existence in one of the four corners of the world, they have worked very hard, and continue to do so, to help us collectively to trace a portrait of our identity. An identity which fears neither its folklore nor its modern manifestation. An identity focused on imagination, innovation and creative excellence.

Acadia has found its expression through many avenues. For years, its schools and its famous classical colleges were the primary sites for the creation of choirs, theatre companies and dance troupes, which were praised for their excellence in Canada, in the United States and as far away as Europe. As proof, I give you the fact that our choirs have won the famous Lincoln trophy nine times. This period in our history was enriched by the contributions of remarkable artists, such as the celebrated violinist Arthur LeBlanc and the no less celebrated opera singer Anna Malenfant, who dazzled international music scenes.

Over the past thirty years, the vitality of the Acadian culture has burst forth in the public place primarily. Art in Acadia has grown so that the festivals, artistic institutions and networks that promote and disseminate them have sprung up all over. The Festival acadien, the Pays de la Sagouine, the Grand-Pré national historic site, the Théâtre populaire d'Acadie, to name but a few, are sites of creativity where every year — and in many ways — what may be called the Acadian soul bubbles forth. In all cultural sectors, people are rolling up their sleeves to ensure a rosy future awaits the Acadian culture.

Indeed, it is with pride that I say the extraordinary panoply of artists giving expression to Acadia is quite simply astounding. Whether it be in literature, music, the visual arts, theatre, the cinema, video, dance, the multi-disciplinary arts or architecture, the better known artists have made their mark, and the next generation is springing up. From Antonine Maillet, winner of the Prix Goncourt, to the young poet Jean-Philippe Raïche, currently short-listed for the Governor General's Award, to Hermémégilde Chiasson, honoured by France as a Chevalier des Arts et des Lettres, to Serge Patrice Thibodeau, winner of several literary awards and France Daigle, Raymond LeBlanc, Gérald Leblanc, Rose Després, Dyane Léger and so many others, a wave of Acadian literature is swelling in Acadia, Canada and internationally.

• (1730)

In music, I would be remiss in not mentioning the extraordinary creative contribution by Michel Cardin, world-renowned lute player, and the University of Moncton's Arthur LeBlanc quartet, with its solid reputation. On the musical scene as well, we have the famous Cajun Zachary Richard, as well as Édith Butler, Angèle Arseneault, Barachois, Grand Dérangement, Roch Voisine, and all the rest, including new group of the year Feu Vert, recognized as such as the recent Prix Éloizes gala.

In the visual arts, who could neglect to mention the highly contemporary work of painter Claude Roussel, and sculptress Marie-Hélène Allain, as well as Yvon Gallant, Roméo Savoie, Nérée deGrâce and all the up-and-coming artists still perfecting their art.

And then there is Acadian theatre. Ranging from the character of *La Sagouine* — whom I have come to know well, so I may be permitted a little knowing wink here, perhaps! — to the Théâtre populaire de l'Acadie, celebrating twenty-five years of existence, Acadian theatre continues to flourish and expand both at home and abroad. Speaking of the flourishing Acadian theatre, I would like to salute the Théâtre de l'Escaouette, which courageously mounts first-performance Acadian creations in order to give Acadian playwrights, both the young and the not-so-young, the opportunities so necessary to their art.

Over the years, Acadia has also produced a few filmmakers. I am thinking of Léonard Forest, Hermémégilde Chiasson, Phil

Comeau, Rodrigue Jean and his *Full Blast*, and young René Blanchard, a member of the jury at the Cannes Film Festival.

But Acadia knows how to dance too! From folk dancing groups such as the Danseurs du Haut-Saint-Jean, who just recently charmed Canadian and European audiences, to the DansEnCorps troupe from Moncton, with its modern take on this art form, dance has always been a vital part of Acadian culture.

I have just evoked a veritable mosaic of artists who are the pride of Acadia and of Canada. Naturally, I would have liked to name every single artist, but the time and space available to me here are limited. For the number of artists that Acadia has given to Canada and to the world is considerable. But I would nonetheless like to pay tribute as well to those who work away from the glare in conditions that are not always easy. Their commitment gives me hope in our collective future.

The economic potential of the arts is enormous. According to Statistics Canada figures for 1997, culture is one of the most rapidly developing sectors in New Brunswick, with a job growth rate of 12.2 per cent compared to 5.1 per cent for Canada as a whole. The direct and indirect impact on the economy represents millions of dollars and tens of thousands of jobs: a solid investment.

I am glad that, thanks to the Department of Canadian Heritage and the Canada Council, increasing numbers of Acadian artists have access to grants and subsidies, which allow them to devote themselves to their artistic endeavours and thus help enrich Canada's cultural heritage.

I sincerely hope that, here in the Senate, we will examine more closely the various facets of artistic creation, so that the Government of Canada can continue to support and promote these artists.

Through literature and theatre, Acadia expresses itself. Through painting, sculpture, cinema and videos it expresses its vision of the world. Through dancing, it shows its strength and vitality. It is through our artists that we realize that the Acadian identity is as broad as life, because it knows no boundaries.

Whether in Newfoundland, Louisiana, Caraquet, Montreal or Belle-Île-en-Mer, the Acadian soul is constantly reborn. We are intrigued, seduced and moved by it. It also makes us laugh, and sometimes cry. It makes us travel through time and space. The arts are a people's soul. Without arts, there can be no identity. And without identity, a people cannot exist. The Acadian culture has been one of the most effective tools to ensure the future of the Acadian people. Today, it is also contributing to making Canada a country with multiple accents and with infinite opportunities to develop. The Acadian culture helps promote Canada, because it is now known and celebrated throughout the Francophonie. For that reason, it participates in the dialogue of cultures between the states and governments of the Francophonie, as was so brilliantly demonstrated at the Francophonie summit held in Moncton, in 1999.

The Acadia of 2001 is now an essential component of Canada's multicultural panorama. We can take pride in saying that, indeed, we were heard from "coast to coast," to quote Canada's beautiful motto. In this respect, Acadia deserves to have the country mark its presence, and also the quality and vitality of that presence by recognizing August 15 as the Fête nationale des Acadiens et des Acadiennes.

On motion of Senator Bryden, debate adjourned.

[English]

UNITED STATES NATIONAL MISSILE DEFENCE SYSTEM

MOTION RECOMMENDING THAT THE GOVERNMENT
NOT SUPPORT DEVELOPMENT—MOTION IN
AMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Roche, seconded by the Honourable Senator Finestone, P.C.:

That the Senate of Canada recommends that the Government of Canada avoid involvement and support for the development of a National Missile Defence (NMD) system that would run counter to the legal obligations enshrined in the Anti-Ballistic Missile Treaty, which has been a cornerstone of strategic stability and an important foundation for international efforts on nuclear disarmament and non-proliferation for almost thirty years,

And on the motion in amendment of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Bacon, that the subject-matter of this motion be referred to the Standing Senate Committee on Defence and Security for study and report back to the Senate.—(*Honourable Senator Wilson*).

Hon. Lois M. Wilson: Honourable senators, for a number of reasons, I do not support the development of a national missile defence system, called NMD by the United States; nor do I support Canadian involvement in such a development. In fact, I hope that Canada will demonstrate leadership to convince other countries, such as China, Russia and the NATO allies, that alternatives to NMD exist and must be implemented if another nuclear arms race is to be averted. A number of questions must be raised about the wisdom and feasibility of such a plan.

The first question concerns the contravention of the 1972 anti-ballistic missile treaty if the NMD is allowed to proceed and the consequent escalation of the arms race. The anti-ballistic missile treaty was hailed as a major milestone for the international community to protect against another arms race. That treaty established stability and confidence in the international community as nuclear superpowers agreed not to develop further defensive systems. One hundred and eighty

signatories, including the U.S.A., have made an unequivocal undertaking to accomplish the total elimination of nuclear arsenals.

For some time, Russia joined the European Union and others in opposing the revision of the ABM treaty, since such revision would increase the risk of nuclear proliferation and an arms race.

But has the recent meeting of President Bush and Russian President Putin prompted the U.S.A. to a two-thirds cut in U.S. strategic warheads in exchange for Russia allowing America to proceed with testing the anti-missile systems?

•(1740)

Both Moscow and Washington have made massive reductions in their nuclear arsenals, but both are keeping sufficient warheads and missiles to perpetuate "mutually assured destruction" and a corner of their strategic parity will remain.

A November 14 news item quoted President Putin as saying that Moscow has adamantly opposed scrapping the plan, and the position of Russia remains unchanged on the ABM treaty. Colin Powell confirmed that there would not soon be an agreement on such missile defence, but it bears watching that Moscow may simply opt not to accuse Washington of breaking that treaty by conducting further testing.

The second question I have is around global security. Long-range ballistic missiles increase insecurity. No corner of the world is safe from their reach. The events of September 11 revealed the shared vulnerability of human beings and the irrevocable interdependence of the world. The promotion of the missile defence system has caused other countries to perceive the NMD as an increased long-term strategy by America to control outer space by instituting unilateral security. This confounds the rationale of the U.S.A. that maintains that in their hands nuclear weapons are agents of security, but in other hands they are instruments of terror, war or mass destruction. A unilateral move away from the disarmament agreements of the international community based on legal instruments puts everyone's security into question.

Foreign Minister Axworthy introduced the concept of human security into foreign relations, emphasizing that what was needed was a rethinking of what security means for the world. Is it not time we do this, now that the events of September 11 have revealed not only a serious breach in American security but also the vulnerability of us all?

The debate should be about more than missile defence. Is it not time we debated how to manage collectively our increased interdependence at a time when the U.S.A. appears not to want to be accountable on many issues to the international community? It will not be an easy debate. Canada's policy is to promote nuclear stability, avoid further proliferation, strengthen global governance in an increasingly interdependent world, and stimulate debate on the further governance of global human security.

Will the debate with Canada sour relations with our American neighbour? After all, we are part of this continent. If we turn NORAD into part of the missile defence system, history's judgment of our commitment to the international community will be harsh.

The third question concerns technological problems. NMD has not yet been proved technologically feasible. The debate rages on as to whether even if feasible there may be a number of rather easy ways to defeat it — by decoys, by offensive saturation or by blinding the sensors on which the systems logic is based.

To test its proposed technology, the U.S. has already been building a missile defence station at Fort Greely in central Alaska, a site the administration says is needed for testing missile defences. It plans to deploy five interceptors in Alaska next spring in violation of the ABM treaty and at great financial cost. Will this testing encourage other nations to develop their technology to block such developments so that, in fact, we are into another arms race willy-nilly?

What are the alternatives? Surely, we must work to preserve the anti-ballistic missile treaty until a more comprehensive framework can be established. Everything needs to be tried — economic incentives, cooperative programs, multilateral efforts to freeze and reduce missile capabilities, and diplomatic relations with states such as North Korea, which Canada already has, to place a freeze on any missile system. Now is the time to focus on working with the UN and international partners to advance global cooperation on disarmament and elimination of the dangerous Cold War targeting plans. We must pay attention to this even at a time when anti-terrorism strategies have understandably captured the whole agenda. While currently the main problem is the vast stockpile of weapons of mass destruction, such as germ and gas warfare, so beloved of terrorists, sight must not be lost of the ongoing plans to build a missile defence system that could intensify international insecurity in the future.

One of the lessons of September 11 was that security must be understood in a global framework, since even the strongest are seen to be vulnerable. A central insight of peace building is that peace and disarmament and security do not endure through enforcement or building higher walls, but through forging political, social and economic conditions conducive to stability for all.

Security needs to be redefined beyond the military dimensions of national interests to the fulfilment of human needs and a cleanup of the swamp and cesspools of despair and poverty that breed hate. Part of the equation is that the deprivations that Third World countries suffer must be vigorously targeted, and Canada's overseas development aid must be restored to more acceptable levels. Third World debt must be erased so that the poorest countries can begin again with a clean slate. More equitable trading practices with Third World countries must be put in place. Money must be spent to help the poorest countries establish basic infrastructure rather than enhance their military forces.

Canada should and could be a leader among G8 nations in this effort. Coupled with a clear rejection of Canada's support for the development of the NMD, this development approach would go a long way to achieving some measure of security for the global family. There is time, as Canada, to my knowledge, has not yet been asked officially by the United States to take a position.

I therefore hope that this motion on recommending non-support of the NMD goes to the Standing Senate Committee on National Security and Defence for timely, sustained debate and report back to the Senate.

Hon. Marcel Prud'homme: Honourable senators, even though I was not made aware that it was to be the wish of the Senate to send this matter to committee, and after a strong appeal by my colleague, I will not be speaking to this issue. I did not know there was such an agreement. I do not wish to be the one to break that agreement.

On motion of Senator Taylor, debate adjourned.

AFGHANISTAN

DECREE REQUIRING NON-MUSLIMS TO WEAR SPECIAL IDENTIFICATION—INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator Finestone, P.C., calling the attention of the Senate to the Islamic Emirate of Afghanistan's May 22nd decree that would force non-Muslims in that country to wear special identification on their clothing. She believes it is important that this distinguished Chamber not remain silent on this question but to go on record in expressing its collective displeasure with that nation's flirtation with policies that set the stage for events that proved horrific in recent human history. Let us learn from our mistakes. Let us not repeat them.—(*Honourable Senator Prud'homme, P.C.*).

Hon. Marcel Prud'homme: Honourable senators, to the surprise of many, I will be extremely brief, following the good counsel of my good friend Senator Lapointe.

Honourable senators, I know you probably never, not even in your wildest dreams, thought that you would hear me agreeing so passionately with Senator Finestone. For all intents and purposes, I am. Forcing someone to wear something that would identify their ethnicity or religion is a deplorable and repulsive act that reminds us of the fascism that riddled Europe in recent times.

At the same time, I plead with honourable senators to be consistent with their principles and to condemn this act wherever it may occur, not just in Afghanistan. For instance, they should also condemn the fact that for the past 35 years Palestinians have been forced to have a different colour of plate than the Israelis. They should also condemn the fact that there are special ID cards for non-Jews, while Jews carry a different-coloured card.

• (1750)

That, too, my dear colleagues, deserves our condemnation.

The Hon. the Speaker: If no other senator wishes to speak, this inquiry is considered debated.

MR. FAISAL HUSSEINI

TRIBUTE—INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator De Bané, P.C., calling the attention of the Senate to Mr. Faisal Hussein, one of the great leaders of the Palestinian people, who died on May 31.—(*Honourable Senator Prud'homme, P.C.*).

Hon. Marcel Prud'homme: Honourable senators, the events taking place in the West Bank and Gaza and the dwindling prospects for peace are but a testimony to how great a tragedy it has been to lose a very good friend, Mr. Hussein. His leadership is very much missed. His is from one of the oldest families of Jerusalem. The Husseins have owned Orient House for hundreds of years. I sincerely hope that all the peoples of Holy Land will honour Mr. Hussein's spirit, which has always tried for moderation, reconciliation, and above all, a just peace.

The Hon. the Speaker: If no other senator wishes to speak, this inquiry is considered debated.

[Translation]

FOUNDATION TO FUND SUSTAINABLE DEVELOPMENT TECHNOLOGY

RESOLUTIONS OF STANDING COMMITTEES ON ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES AND NATIONAL FINANCE ON BILL C-4—MOTION TO FORWARD TO COMMONS—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator DeWare, seconded by the Honourable Senator Kinsella:

That the Senate endorse and support the following statements from two of its Standing Committees in relation to Bill C-4, being An Act to establish a foundation to fund sustainable development technology.

From the Fifth Report of the Standing Senate Committee on Energy, the Environment and Natural Resources the following statement:

"The actions of the Government of Canada in creating a private sector corporation as a stand-in for the Foundation now proposed in Bill C-4, and the depositing of \$100 million of taxpayer's money with that corporation, without the prior approval of Parliament, is an affront to members of both Houses of Parliament. The Committee requests that the Speaker of the Senate notify the Speaker of the House of Commons of the dismay and concern of the Senate with this circumvention of the parliamentary process."

From the Eighth Report of the Standing Senate Committee on National Finance, being its Interim Report on the 2001-2002 Estimates, the Committee's comments on Bill C-4:

"Senators wondered if this was an appropriate way to create such agencies and crown corporations. They questioned whether the government should have passed the bill before it advanced the funding. The members of the Committee condemn this process, which creates and funds a \$100 million agency without prior Parliamentary approval."

And that this Resolution be sent to the Speaker of the House of Commons so that he may acquaint the House of Commons with the Senate's views and conclusions on Bill C-4, being An Act to establish a foundation to fund sustainable development technology.—(*Honourable Senator Robichaud, P.C.*)

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I am pleased to address Bill C-4, to establish a foundation to fund sustainable development technology.

I appreciate this opportunity to clarify the facts regarding the establishment of the Canada Foundation for Sustainable Development Technology, and to demonstrate that the creation and funding of that initiative will comply with all parliamentary authorizations and practices.

Honourable senators, to briefly recap, you probably remember that, in the February 2000 budget, the Minister of Finance announced that \$100 million would be earmarked for the Sustainable Development Technology Fund. It was then confirmed that an independent body promoting cooperation between the business world, universities, communities and governments would be considered to support the development and implementation of new technologies to reduce greenhouse gas emissions.

Honourable senators, as you know, there are various approaches to setting up independent bodies. I propose to tell you about these ways when I will resume the debate, which will allow us to move on to other issues that we must deal with before adjourning today.

On motion of Senator Robichaud, debate adjourned.

[English]

QUESTION OF PRIVILEGE

Hon. Anne C. Cools: Honourable senators, as indicated earlier, I gave both oral and written notice that I would be raising a question of privilege at this time today. I had said very clearly earlier that my question of privilege flows from the debates of the previous Thursday, November 8, 2001. The debates in question about which I am speaking fall on pages 1693 through to about 1696 of the *Debates of the Senate*. I think it constitutes a fair amount of time.

The situation grew out of my attempts, under the authority of rule 3, to ask leave to revert because, as was explained in the debate, I had been distracted by Senator LaPierre for a few seconds. I had been expecting Senator Prud'homme to be speaking. I looked around and I realized that not only was Senator Prud'homme not speaking, he was not in the chamber. At that point, I scrambled to my feet. The situation seemed to move quite smoothly. Essentially, I indicated that it was my inquiry, and that obviously I knew that I had a right of reply. I wanted to move the adjournment so I could make the reply at the next convenient time.

Moving from there, this apparently simple matter, which goes on daily in this place without comment, without remark, without notice, suddenly ballooned into a major debate. I am beginning to conclude that there is something about me, and any time I get to my feet it automatically inspires a certain degree of action. It is something that fascinates me, and perhaps we could look at a study of it some time. It might prove to be of interest.

My question goes to the point that privilege is a very important matter and our rights to speak are equally important. Somehow or other, rightly or wrongly, I feel — and I am prepared to be persuaded that I am wrong — that in the matter on Thursday, November 8, I was not treated fairly and properly, and certainly not in a manner that I think is accorded to the dignity of the Senate or to the dignity of any particular senator.

In addition to that, I would remind honourable senators of rule 44(1), which imposes on every single senator an obligation to uphold and defend privileges as a matter of obligation and also as a duty, and rule 44(1) also imposes it as a priority. I am speaking in a way that we can follow.

Having said that, and proceeding under rule 43, I am asking the Speaker of the Senate to make a finding of a case of *prima facie* privilege, and were he to do that I would be prepared to move a necessary motion.

Now, if we were to look at the debates on Thursday, we would begin very quickly to see the origins of my complaints. My complaints are essentially that I was thwarted in my attempt to preserve my right to reply as per rule 35, that I was thwarted in my right to speak to move an amendment, and also that I was thwarted to ask for leave of the Senate.

In addition, Senator Kinsella did the most curious thing in the debate and wrongly claimed that I had been absent when the order had been called. In point of fact, I was present, as anyone examining the record would be quickly able to see. I shall return to that in a moment.

•(1800)

I was quite present and I was also perturbed by the apparent confusion that seemed to dominate the debate, particularly on the meaning and application of the rules. A consequence of the confusion —

The Hon. the Speaker: Honourable senators, it being six of the clock, I am obliged to rise to observe that fact.

Is it the wish of honourable senators that I not see the clock?

Hon. Peter A. Stollery: Honourable senators, I should like permission to revert to Notices of Motions.

The Hon. the Speaker: Before anything can happen, honourable senators, we must deal with the matter of the time. Is it agreed that I not see the clock?

Hon. Senators: Agreed.

The Hon. the Speaker: The Honourable Senator Stollery wishes leave to revert. Senator Cools has the floor. However, I believe I know why, in terms of committee work, the Honourable Senator Stollery is asking for leave. I will give him an opportunity to make his request.

Senator Cools: His Honour cannot do that without asking me to yield the floor. If I were to be asked, I would consider it an act of generosity on my part.

The Hon. the Speaker: Perhaps we can deal with this as a matter of order. I believe the Chair can recognize someone rising to request leave. I have decided to recognize Senator Stollery and I do so now.

Debate suspended.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING
SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Peter A. Stollery: Honourable senators, with apologies for interrupting Senator Cools, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Foreign Affairs have power to sit while the Senate is sitting today, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

Hon. Anne C. Cools: Honourable senators, a most unusual process has just happened. It is extraordinary and has set an extremely dangerous precedent, and I shall use it myself in the future to interrupt a senator who is speaking.

QUESTION OF PRIVILEGE

Hon. Anne C. Cools: As I was saying, honourable senators, there was much confusion on the meaning and the application of the rules, a result of which was that some senators were able to impose conditions on me in respect of my undoubted rights; conditions that were actually contrary to the rules. In addition, I found that the constant conversations between the Table officer and His Honour were distracting and disruptive. His Honour, I have no doubt, would be distressed, and I would understand why, if, as I was speaking to him, a Table officer were standing next to me prompting me and causing a certain amount of disturbance. I am raising the question as to why it is that the Table officers can prompt some senators and not others. That is a question perhaps we can decide or consider or even debate on another day.

Honourable senators, I wish to come to what I consider to be the crux of the matter. To do so, I should like to read to honourable senators a quotation from Erskine May.

We must be mindful that the Senate is a different institution from the House of Commons and the Speaker of the Senate is a totally different personage and has totally different authority from the Speaker of the House of Commons. I should like to place on the record a quotation from Erskine May, which has been used often by previous Speakers in this place. It is the 21st edition, found at page 433, dealing with the question of the preservation of order. Of course, Erskine May wrote in England, so he was speaking about the House of Lords.

The preservation of order in the House and the maintenance of the rules of debate are the responsibility of the House itself, and therefore of all Lords who are present. All Lords have a duty to call attention to breaches of order or procedure. The Lord Speaker has no controlling powers. The Leader of the House —

— in Canada we say “Government Leader,” but it is really the Senate leader —

— has a special part to play in expressing the sense of the House and in drawing attention to transgressions of order.

Therefore, honourable senators, to come to the crux of the matter, it seems to me that we have to attempt to identify very carefully what are the duties, rights, obligations and privileges of senators in contradistinction to the duties, rights, privileges and obligations of the Speaker of the Senate, and, in addition to that, to contemplate the question of what are the duties and

obligations of the Speaker of the Senate in respect of upholding the right of any senator to speak and to be able to exercise their rights under the Bill of Rights of 1689.

Honourable senators, what happened — and it was very interesting, as I was just saying — was that I rose and things seemed to move along. Then, at page 1693 of the *Debates of the Senate*, His Honour asked for a moment. That is fine. I give him 10 moments. Then down near the bottom of the page, he stated:

Perhaps I am on weak ground. I would ask for interventions as a matter of order.

There is no such provision in our rules and no such capability in our rules to do any such thing. However, it was done.

The most striking thing of all, honourable senators, is that I asked for leave and got leave several times in the process of the debate, yet no one seemed to know and it did not seem to matter. I was just ignored. Senator Kinsella or someone else would rise to speak and they would go on again.

Honourable senators, my major point is that if we look at the debate on page 1694, we see that His Honour said:

Senator Cools has requested leave to revert to Order No. 8, Inquiries. Is leave granted, honourable senators?

The response was:

Some Hon. Senators: Agreed.

Leave was granted. It was perfectly crystal clear. Leave was granted. In point of fact, His Honour does not have to ask, “Is leave granted?” As a matter of fact, the seeking of leave is a matter among senators. In other words, a senator rises and says, “Honourable senators, will you grant me leave?” There is no need for any intervention whatsoever from His Honour. This is a new innovation that suddenly, it seems to me, has sprung out of the air. In any event, the fact of the matter is that leave was granted.

That was the second time. Leave was granted. At that, Honourable Senator Kinsella then sprung to his feet and made another intervention. It is very important that we understand that several paragraphs before, after I had explained very carefully that I had been here in the chamber, and after Senator LaPierre got to his feet and explained that he had distracted me, in point of fact Senator Kinsella said more than once:

Honourable senators, if the honourable senator in whose name the motion was made wants to exercise the right that is provided for by rule 35, he or she must be in the chamber when the item is called.

Honourable senators, I was right here when the item was called. I understand that since then Senator Kinsella has been a bit zealous, and I can appreciate that, but he goes on to repeat it again.

•(1810)

No one said at the time that I was here present, even though I had said it myself before, and even though Senator LaPierre had said it. It is called "speak and be ignored."

Senator Kinsella continued:

In the matter before us, honourable senators, the item not only was called; it was disposed of. The proceedings of the house this afternoon have gone far beyond this. It would require unanimous consent, it seems to me, to refer back to that item. We should be perfectly clear that senators must be present if they are to exercise the right provided for by rule 35.

Honourable senators, I was very present.

Following that, His Honour said:

Senator Cools has requested leave to revert to Order No. 8, Inquiries. Is leave granted, honourable senators?

Some Hon. Senators: Agreed.

Senator Kinsella was on his feet again. He said that he would be happy to give leave, but leave had already been given. He said he would be happy to give leave "provided that it is for a substantive contribution to the debate." I must say that if we imposed the condition that senators must make substantive interventions, many would fall far short. There are no such conditions. One cannot attempt to anticipate the content of what a person will say, and neither should we.

However, even though leave had been granted, it was essentially ignored and the debate continued, quite interminably, it seems to me. There was confusion as to whether I had the right of reply, when it was crystal clear to me all along that I had the right of reply. All I was trying to do was to exercise my right to take the adjournment in order that I could exercise my right of reply in due course.

In any event, it would be nice if this place could operate on a basis of fairness and balance and the understanding that unanimous consent is requested quite frequently here. As a matter of fact, I think it is requested too frequently. There was a period of time about a year ago, which I remember quite vividly, when the government operated most of the time on unanimous consent.

Having said that, it seems to me that something very wrong happened. If, as it would appear, I was sitting here in the chamber and the senator who was supposed to speak was not here and His Honour called "stand," it seems to me that with the same amount of effort His Honour could have looked at me and said: "Senator Cools, you have been distracted. Your item is being called and Senator Prud'homme is not here to speak to it." It seems to me that that would have been kinder, finer and wiser, and would have culminated in a nicer result.

Honourable senators, I have no doubt that my privileges were breached and that my efforts to speak were thwarted, conditions having been placed upon them. I am pleased to say that I did survive and, not only that, at the end of a rather convoluted exchange I succeeded in doing exactly what I had set out to do in the first place, which was perfectly consonant with the rules, that is, to move the adjournment in order to be able to respond.

Honourable senators, some of the finest people in the world work for senators and the Senate. I have never met more dedicated or noble people than those who are committed to this institution. However, I am very mindful that there is need for guidance in many fields. I belong to that group that was very saddened and disturbed some years ago when we used to hear the previous Speaker, the late Senator Molgat, refer to the Table officers as his "staff." The Table officers are not the personal staff of the Speaker of the Senate.

I refer honourable senators to the *Debates of the Senate*, page 339, November 6, 1997. The Speaker of the Senate, addressing a point of order, says:

I did not hear anyone say "No." I have checked with my staff and they did not hear anything, either.

At that time, I discussed the matter with the relevant individuals and said that it was very unhealthy for the Speaker of the Senate to refer to the Table officers and the Clerk of the Senate as his staff. I thought that then, and I still think it now. It is something that we should look into.

I am requesting His Honour to look at what I said to determine whether I have established a prima facie case of privilege, bearing in mind that the Speaker of the Senate is just like an ordinary senator. Remember that the position of Speaker of the Senate was originally based on the Lord Chancellor but has changed dramatically. It has not developed as was anticipated. Remember that the Lord Chancellor was the keeper of the conscience of the king.

Honourable senators, I am prepared to sit down and give other senators the opportunity to speak. I reserve the right to respond to them.

The Hon. the Speaker: Do other senators wish to intervene on this matter of privilege?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wish to make three small points. First, I do not believe that a prima facie case of breach of privilege has been raised. Second, the *Debates of the Senate* speaks for itself. Third, with regard to the interpretation of rule 35, I maintain that, although a right is granted, that right can only be exercised if the senator is in the chamber. It is not vested somehow transcendently beyond the chamber. There is nothing in the record, as I recall, that reference was made to any particular senator.

Hansard reads:

Honourable senators, if the honourable senator in whose name the motion was made wants to exercise the right that is provided for by rule 35, he or she must be in the chamber when the item is called.

I think that is clear. The other thing is that, as I say, *res ipsa loquitur*, the *Debates of the Senate* speaks for itself.

Finally, rule 43(12) provides:

The Speaker shall determine whether a *prima facie* case of privilege has been made out.

Much of what I heard in the assertion of a *prima facie* case of breach of privilege seems to indicate that it was the conduct of His Honour that breached the privilege, and now His Honour is being called upon, by rule 35, to judge his own actions. That part of the question of privilege that has been raised might put His Honour in a difficult position. However, I shall certainly abide by whatever His Honour finds.

Senator Cools: Honourable senators, I should like to respond to what Senator Kinsella just said. At the risk of being repetitious, I will state that I never claimed that rule 35 had application or vested an application beyond the Senate. I repeat that I was in the chamber when the order was called. I was distracted for a matter of seconds. I wish to clarify that for the record.

•(1820)

Rule 35 clearly establishes the right of a senator to respond in reply. All that I was trying to do was to reach back into the debate about 10 seconds or 15 seconds, because in point of fact nothing had happened. Both items had been stood.

Now to the last question that Senator Kinsella raised, I am prepared to give this some very deep thought and very sensitive thought. He said that the question raised is not so much to do with him as it is to do with His Honour. I will think about that for a split second because I truly do not want to cause anyone any difficulty. Since I might cause His Honour some difficulty, I should like to withdraw the question of privilege. I think this is something that should be proceeded with in another order and in another kind of a proceeding. Consider the matter withdrawn, honourable senators.

CANADIAN SECURITY INTELLIGENCE SERVICE

INQUIRY

Hon. Marcel Prud'homme rose pursuant to notice of June 14, 2001:

That he will call the attention of the Senate to the latest public report for the year 2000 from the Canadian Security Intelligence Service.

He said: Honourable senators, I raised this question in June, if you remember, and I was hoping that some senators might have participated in view of the events that took place in September. I am not one of those who says the world changed forever after September 11. I draw this to the attention of my honourable friends and colleagues, especially the new senators, because it seems there are two groups of senators here. I will talk like a new senator to the new senators. I will be very brief, as I was in the two other matters.

We should pay just a little bit of attention to the Canadian Security Intelligence Service 2000 public report. Just read it. It is very small. Canadians who read our proceedings can get a copy by phoning 613-231-0100. The young, modern people who are on the internet can go to www.csis-scirs.gc.ca. I would hope that many Canadians will read the report.

I will not back off. I voted in 1984 against the creation of CSIS. I had a very interesting and lively discussion, as only Mr. Trudeau would like, on this issue. It was one of the last pieces of legislation. The Solicitor General then was the Honourable Mr. Caplan, and I disagreed totally with him. That does not mean and was never meant to say that I am against security.

I was of the opinion, and I am still of the opinion, that we should have modernized the Royal Canadian Mounted Police. They have served Canada so well in the past and are serving Canada so well today. We should modernize, leaving aside some of their activities for the provinces, so they can really become our great Canadian force for modern problems, one of them being terrorism, the other one being white collar crime. That was my opinion in 1984. I have not changed opinions since.

I will work in January on a bill that will die, but I will do what a senator should do and put forward ideas for reflection by honourable senators who are interested in moving forward in a modern society, in an immense, changing society. It will be food for thought, and the ideas will not be all mine. A collection of intelligent people in security matters will be helping me in this matter.

For those honourable senators who may think that I could be soft on crime and terrorism, I draw to their attention that I was faster than the Liberals when Senator Kelly, our esteemed colleague and expert on questions of terrorism and all of these modern unfortunate sicknesses, put to the Senate a motion to continue his study on terrorism. The last time, that motion was seconded by me. I was faster. I know some were very disappointed and were almost about to say no, but I was honoured to second that motion to show where I stood.

I was a volunteer on that committee during the summer. It is tough enough to be a committee member and sit when the Senate is not sitting, let alone be a volunteer when the Senate is not sitting. I did the same thing when the Standing Senate Committee on Veterans Affairs was looking at the War Museum issue. Some people were going to take over the museum, and our military would have lost it.

I walked out of the hospital and volunteered with Senator Kelly again. There were five committee members. Three women represented the Liberal Party: Senator Chalifoux, who I did not know, Senator Forest from Edmonton and Senator Cools. The two Conservatives were Senator Jessiman from Winnipeg, who was on his way out, and our very good friend the chairman, Senator Phillips, from the province of Prince Edward Island.

We did a good job. In my view, we saved the War Museum for the veterans. If some people want to have another kind of museum, let them come openly and say so, and we will act according to what is in the best interests of Canada.

I make these comments to bring to the attention of my colleagues and Canadians that they should read this report. If the report had been read attentively, we may not have had a pre-study on Bill C-36 on terrorism. That bill is now being debated in the House of Commons, following which it will come the Senate. When this bill comes back, I will recommend reading the report of the security services for the year 2000. You have time. It is only half a page. It is very interesting reading in view of the debate we will have eventually on Bill C-36.

I have said enough to draw to attention to this report.

Hon. Aurélien Gill (The Hon. The Acting Speaker): If no other senator wishes to speak, honourable senators, this matter is considered debated.

•(1830)

NOMINATION OF HONORARY CITIZENS

INQUIRY—DEBATE ADJOURNED

Hon. Marcel Prud'homme rose pursuant to notice of June 14, 2001:

That he will call the attention of the Senate to the way in which, in the future, honorary Canadian citizens should be named and national days of remembrance proclaimed for individuals or events.

[Translation]

The Hon. the Acting Speaker: Honourable Senator Cools, we have reached Inquiry No. 26 on the *Order Paper*. Do you wish to intervene on this point?

[English]

Hon. Anne C. Cools: Honourable senators, the subject matter here before us is the phenomenon of the definition and creation of honorary Canadian citizens. The question that the inquiry poses is the mode and the manner in which honorary Canadian citizenship should be named and in which national days of remembrance should be proclaimed.

[Translation]

The Hon. the Acting Speaker: Since Inquiry No. 26 stands in the name of Senator Prud'homme, he must introduce it first and then Senator Cools may speak.

[English]

Senator Prud'homme: Of course, on June 14, 2001, I gave notice of this inquiry when I said that I would call the attention of the Senate, et cetera.

Later that day, I participated in the debate to declare Nelson Mandela an honorary citizen of Canada, and as such spoke a little about what honorary citizenship means.

Senator Cools would like to say a few words, so I will let her say what she has to say.

Senator Cools: Honourable senators, I have agreed to respond to this.

Honourable senators, yesterday many of us attended the very moving event where Mr. Mandela was received as an honorary citizen of Canada.

As many honourable senators would know, I had moved the motion to make Mr. Mandela an honorary Canadian citizen at the request of some of my Toronto colleagues, who had asked me to pilot the motion through the Senate.

We can say with great pride that yesterday was a very touching moment. A video shown to the guests contained many scenes of events in South Africa. For me, it was a touching moment because I was deeply reminded, in a poignant way, of the impact and the effect that those events had on me as a relatively young woman who was shocked that such carnage and injustice could go on in the world. I was much more naive in those days.

My personal feelings about Mr. Mandela revolve around the fact that his greatness rests not so much in what he did but in the being and the essence of the person that he is and in what he prevented from happening. Mackenzie King once said that the greatness of a leader is not only in what he does but also in what he stops others from doing. To my mind, the greatness of Mr. Mandela has a lot to do with the fact that, but for this one man, this one individual as a binding force for South Africa, the carnage and the bloodshed would have been unspeakable. That, I think, is the primary reason why so many people have been drawn into an almost adulation of this individual.

I was very touched yesterday as well as I saw the frailty of the man. I guess age will claim us all. I saw a man who was beginning to grow a little tired, but I would say that he is a man whose pilgrimage has been an amazing example for all of us.

I think the essential point here to which Senator Prud'homme wants to draw attention is the manner in which such choices are made. The British have many ways of honouring people. One of them is knighthood — which is an ancient method of honouring people. In Canada, we do not have an equivalent set of honours, even though I sometimes wish we did. The fact of the matter is that it was the feeling of a large number of members of Parliament that Mr. Mandela should be honoured in a very special way beyond the Order of Canada, beyond the adulation. The people who had this idea looked to the concept of honorary citizenship.

The history of honorary citizenship in this country is amazingly limited. Accordingly, such honorary citizenship has been conferred only on one other occasion, on Mr. Raoul Wallenberg.

However you cut it, the whole phenomenon of honours is a very important matter. There is something in the heart of human beings that wants to be honoured by peers and by the sovereign. In the instance of Mr. Mandela, it is a most interesting honour because he is one of the few human beings in the world who could ever have claimed to be a sovereign, to the extent he was a sovereign, as the president of South Africa was, and now he is an ex-sovereign.

At some point in time, perhaps we could begin, as a Senate chamber, to look at the question of how we choose those on whom we confer the phenomenon of honorary citizenship. While we are at that, we should also look at the whole phenomenon of how we confer honours, how we choose them, and what kinds of honours are most fitting to any nation or any country.

On motion of Senator Banks, debate adjourned.

BIOLOGICAL WEAPONS AND BIOWARFARE

INQUIRY—DEBATE ADJOURNED

Hon. Sheila Finestone rose pursuant to notice of November 6, 2001:

That she will call the attention of the Senate to the issue of biological weapons and bio-warfare.

She said: Honourable senators, thank you for sitting here for a long show. I want to address the question of biological weapons and biowarfare. We see the headlines in the newspapers today about Syria, Libya, Sudan and Iran, with specific highlighting of Iraq defying the bioweapons ban of the United States.

I would like to adjourn the debate in my name so that we can take a look at the fact that we are in a race with the dark side of biomedicine and science.

On motion of Senator Finestone, debate adjourned.

[Translation]

INFORMATION COMMISSIONER

MOTION TO RECEIVE IN COMMITTEE OF THE WHOLE—
DEBATE ADJOURNED

Hon. Noël A. Kinsella (Deputy Leader of the Opposition) pursuant to notice of June 13, 2001, moved:

That the Senate do resolve itself into a Committee of the Whole, on Wednesday June 20, 2001, at a time convenient to the Government and the Information Commissioner in order to receive the Information Commissioner, Mr. John Reid, P.C., for the purpose of discussing the most recent Annual Report of the Commission, including the call in that report for whistleblowing legislation.

That television cameras be authorized in the Chamber to broadcast the proceedings of the Committee of the Whole, with the least possible disruption of the proceedings.

On motion of Senator Stratton, for Senator Lynch-Staunton, debate adjourned.

The Senate adjourned until Wednesday, November 21, at 1:30 p.m.

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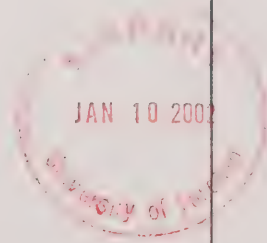
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NUMBER 71

OFFICIAL REPORT
(HANSARD)

Wednesday, November 21, 2001

THE HONOURABLE DAN HAYS
SPEAKER



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(Daily index of proceedings appears at back of this issue.)

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THE SENATE

Wednesday, November 21, 2001

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

**THE LATE GARNET "ACE" BAILEY
THE LATE BILLY "HINKY" HARRIS
THE LATE CARL BREWER**

TRIBUTE

Hon. Francis William Mahovlich: Honourable senators, the fall of 2001 was not the most glorious for the National Hockey League alumni. We lost three of our most distinguished members, Garnet "Ace" Bailey, Billy "Hinky" Harris and Carl Brewer.

Carl did not have a nickname because he never stayed long enough in one place. He went to five different high schools in Toronto in five years and seemed to always be quitting the NHL to play in Europe or in the IHL or on Canada's Olympic team.

The common denominator of the three players was that they all left beautiful, successful families. Bailey left a son and wife in Boston where he began his career with Bob Orr. Ironically, his career ended in Edmonton with Wayne Gretzky as his roommate; they were two of hockey's greatest players. Bailey was on his way to Los Angeles when his plane was terrorized and crashed into the New York World Trade Center.

Harris played from 1955 to 1965 with the Toronto Maple Leafs, who won the Stanley Cup in 1962, 1963 and 1964. His book *The Glory Years* brings to life that period when the Leafs were a dynasty. We had won more championships than the Montreal Canadiens or the New York Yankees. I believe it was 13, up to 1964.

Billy coached the Canadian national team during the 1969-70 season. "Hinky" left the coaching ranks to pursue his B.A. in education at Laurentian University. Billy also served for many years as the President of the Maple Leafs' Alumni Association.

In 1966-67, Harris was with my brother, Peter, when they won the Calder Cup, emblematic of the American Hockey League. I remember both of them phoning me to wish me luck in the Stanley Cup playoffs that year when we were playing against the Montreal Canadiens.

Billy is survived by his companion, Tonie Simpson, and his children, Wendy, Billy Jr., Patti and Bob, and was predeceased by his wife, Sylvia.

Carl Brewer: defender of the underdog. To take on the NHL, it was David against Goliath. August 25, 2001, Carl passed away. The alumni were well represented at the funeral in appreciation of what Carl did in their lawsuit against the National Hockey League that won players of his generation U.S. \$40 million in pension money. Brewer started his battle with the National Hockey League Pension Society by questioning the practices of Alan Eagleson, then the head of National Hockey League Players Association, and organizing players to enter into a lawsuit against the National Hockey League. Winning the civil battle ultimately brought down Eagleson, who served six months in jail for fraud and theft after pleading guilty to criminal charges.

The pension battle overshadows what was a successful NHL career for Carl. A swift skater whose abrasive style agitated his opponents, he played 604 career games and had 25 goals and 198 assists.

The Hon. the Speaker: I am sorry to advise the honourable senator that his time has expired.

Hon. John Lynch-Staunton (Leader of the Opposition): Give him five minutes of overtime.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Mahovlich: Carl was a key member of the Leafs teams that won three Stanley Cups from 1961 to 1964, yet he was never inducted into hockey's Hall of Fame.

Carl leaves his long-time friend and companion, Susan Foster, sons Michael and Christopher, daughter Anna-Lisa, granddaughter Astrid, and former wife, Marilyn. Carl will be remembered for his exceptional hockey talent, a man of vision with a mission, a believer in principles, a fighter for the NHL players' rights.

ANTI-RACISM LAWSUIT AGAINST JOHNSON & JOHNSON

Hon. Donald H. Oliver: Honourable senators, there is yet another multi-million dollar anti-racism lawsuit launched south of the border. This one is against Johnson & Johnson, a multi-billion dollar corporation with 195 operating companies in 51 countries around the world.

This follows on the heels of the anti-discrimination lawsuit successfully brought against Texaco Inc. and Coca-Cola, which I previously brought to honourable senators' attention. I continue to raise these issues in the chamber because the same systemic racism against the promotion and advancement of Blacks and visible minorities exists in our Canadian corporations. Something must be done about it.

• (1340)

In March, I advised honourable senators that the Coca-Cola Company of Atlanta paid out the largest settlement in history for a discrimination lawsuit, U.S. \$200 million. In the Texaco case, it was \$176 million. The Johnson & Johnson lawsuit, which seeks class action status for more than 1,000 minority workers, mainly Blacks and Hispanics, alleges that they are not given a fair and equal opportunity to attain senior positions in divisions that earn the highest revenue. The suit alleges that "Blacks and Hispanics endured discrimination in pay because merit increases, cash bonuses, stock awards and stock options are based on a flawed and unduly subjective performance rating system." The suit further alleges that "senior management and human resource supervisors at Johnson & Johnson, the maker of Band-aids and baby shampoo, have repeatedly failed to monitor the company's promotion and compensation practises for discrimination." The actions of these corporations are not only breaking the backs and the pockets of the workers but also their dreams, be it employment stability or financial prosperity.

Honourable senators, we need to be up close and personal to the issue of discrimination and racial bias in the workplace. Canada must not only take the issue seriously but also, as public policy-makers, we must put in place legislative safeguards to prevent racism and discrimination of any sort in the workplace. We know this type of behaviour is going on in Canada. Let us not wait for it to be our corporations and our government in the news.

I call upon all honourable senators to join me in this fight, which has gone on in North America for too long. Let us make a commitment. I know we can make a difference.

LIBERAL PARTY SUPPORT FOR FREE TRADE AGREEMENT

Hon. Gerald J. Comeau: Honourable senators, in response to a question on November 7, the Leader of the Government in the Senate stated, "Let me begin by saying that I do not think the Liberals were ever opposed to free trade." She went on to explain that her opposition had been to the dispute settlement mechanism.

We all understand that the minister's job is to put a positive spin on Liberal policy positions. It may well be that the dispute settlement mechanism was the central issue in free trade in Manitoba, but that certainly was not the case in Atlantic Canada. I know. I was a federal candidate during the free trade election referendum of 1988.

History recalls that when then Liberal leader John Turner vowed to make free trade the fight of his life, when he said that free trade would cut Atlantic Canada adrift, and when he called on the Liberal dominated Senate to block free trade to precipitate an election, he was not referring to the dispute settlement mechanism.

I remind honourable senators of what was said by the Liberal leader, candidates and canvassers during the campaign, namely,

Liberal TV ads erasing the Canada-U.S. border on the map. Social programs, medicare, old age pensions, senior provincial drug programs and child care would be finished. Hospitals and schools would be privatized. Surgery patients would have to pay for blood transfusions. Cultural industries were gone. Regional development programs were gone. There would be no more R&D in Canada. The Americans would take over fish quotas. Fish caught in our Canadian waters would be landed in American ports. Management of our fish stocks was gone. Logs would be shipped round. Supply management was dead. Chicken farming, hog ranching and the milk industries were gone. Processed products such as powdered eggs, chickens, milk products and processed food, all gone.

These were the doubts and fears raised in senior citizens' homes, fish plants, sawmills, farms and schools — fears which were raised amongst the most vulnerable in society: the sick, the elderly, the working poor, people on fixed income and the young. As a result, Progressive Conservative candidates in the 1988 election fell like flies. It was a turkey shoot.

Senator St. Germain: I was one of them.

An Hon. Senator: So was I!

Senator Comeau: Massaging the facts today cannot change what was history.

An Hon. Senator: Mendacities!

FAMILY AND GENDER VIOLENCE

Hon. Catherine S. Callbeck: Honourable senators, I rise today to speak about a serious situation experienced by countless women and families across Canada. This devastating problem causes broken homes, unbearable living circumstances, injuries and, in many cases, death. This issue is family and gender violence.

Honourable senators, November 25 to December 10 is known as the 16 days of activism against gender violence. This coming Sunday, November 25, marks the International Day to End Violence Against Women. December 10 is International Human Rights Day. In between these dates, on December 6, men and women throughout Canada will join together to commemorate the twelfth annual national day of remembrance and action with regard to the "Montreal massacre." I am sure I do not have to remind anyone here of the 14 women who were murdered in Montreal in 1989, simply because they were women.

The events in Montreal 12 years ago have truly opened many eyes to the problem of family and gender violence. Startling statistics have been kept that reveal the severity and frequency of the violence. Over half of Canadian women — 51 per cent — have been victims of at least one act of violence since the age of 16. Their attackers are seldom strangers. Last year, 55 per cent of those murdered women had been killed by someone they either knew or had been with in a relationship.

Women and children are reaching out for support. In the span of one year, almost 100,000 women and children were admitted to shelters in Canada. To raise awareness of this issue, the Status of Women organization of Prince Edward Island has forwarded purple ribbons to be sent to the offices of all senators. I encourage honourable senators to wear their ribbon during this important period to show to others their desire to eliminate family and gender violence everywhere.

[Translation]

ROUTINE PROCEEDINGS

OFFICIAL LANGUAGES

GOVERNMENT RESPONSE TO FIFTH REPORT OF JOINT COMMITTEE TABLED

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour of tabling the Government's response to the fifth report of the Standing Joint Committee on Official Languages titled "Study on the bilingual services offered by Air Canada."

[English]

CANADA-COSTA RICA FREE TRADE AGREEMENT IMPLEMENTATION BILL

REPORT OF COMMITTEE

Hon. Peter A. Stollery, Chairman of the Standing Senate Committee on Foreign Affairs, presented the following report:

Wednesday, November 21, 2001

The Standing Senate Committee on Foreign Affairs has the honour to present its

SEVENTH REPORT

Your Committee, to which was referred Bill C-32, An Act to implement the Free Trade Agreement between the Government of Canada and the Government of the Republic of Costa Rica and to make related amendments to other Acts, has examined the said Bill in obedience to its Order of Reference dated Wednesday, November 7, 2001, and now reports the same without amendment.

Respectfully submitted,

PETER A. STOLLERY
Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read a third time?

On motion of Senator Stollery, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[Senator Callbeck]

[Translation]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY TIME ALLOTTED FOR TRIBUTES

Hon. Jean Lapointe: Honourable senators, I hereby give notice that, tomorrow, Thursday, November 22, 2001, I will move:

That the Standing Senate Committee on Rules, Procedures and the Rights of Parliament be authorized to examine the time allocated to tributes in the Upper Chamber and to report no later than March 31, 2002.

[English]

QUESTION PERIOD

TREASURY BOARD

REPORTS BY DEPARTMENTS EVALUATING EQUALITY AND DIVERSITY AGENDA—REQUEST FOR TABLING

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. The events of September 11 have shocked governments around the world, and they are affecting their legislative agendas. As a body of sober second thought, it behoves us in the Senate of Canada to ensure that our government does not lose sight of the equality and diversity agenda that would provide for a representative public service.

Media reports confirm that there are pressures on the Minister of Finance and cabinet to move financial resources to help fight terrorism. My fear is that these reallocations not take place at the expense of implementing the program adopted by cabinet flowing from the report entitled "Embracing Change in the Federal Public Service." Diversity has never been more important than now, and we need heightened accountability of departments because not enough has been accomplished to date.

Will the minister obtain copies of the departmental report cards from each and every department plus copies of the evaluations done to date by each department to determine the extent to which they have incorporated the benchmarks approved by cabinet to help departments and managers achieve diversity? Will she lay these reports before this chamber before the Christmas break?

Hon. Sharon Carstairs (Leader of the Government): I thank Senator Oliver for his question. Far from the events of September 11 having an impact on the equality and diversity agenda, the honourable senator should take comfort from the fact that the government has an understanding of the need to address diversity because of the actions of September 11.

We have seen indications since September 11 of things within our communities that we would rather not see. I can say with a great deal of comfort that I can assure him today that the equality and diversity agenda will proceed.

With respect to the report cards of the evaluations, if that information is available, I will certainly obtain it for the honourable senator. I will get it back to him as quickly as I can and if at all possible before we recess for Christmas.

Senator Oliver: As a supplementary, Canadians live with diversity as a Canadian reality. They see diversity when they visit their children's classrooms, turn on multicultural television channels, read a brochure from the City of Toronto that is written in 13 different languages or ask for help from the Customs and Revenue Agency, which is available in some 20 languages; yet the federal public service is still not representative of the country, and particularly not representative of the four target groups, namely, Aboriginals, visible minorities, women and the disabled.

Will the minister table before this house, before the budget comes down, background documents confirming the progress made on implementing the provisions of the Perinbam report called "Embracing Change in the Public Service"?

Senator Carstairs: I will obtain for the honourable senator any background information that I can possibly obtain for him, but I want to assure him that the government is working, particularly, to have much better representation from the four target groups that have been identified consistently as lacking appropriate representation in our public service.

FINANCE

CUTS TO EMPLOYMENT INSURANCE PREMIUMS

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate. Today's topic is our friendly EI premiums.

The *Ottawa Citizen* reported today that even though the EI account is running a surplus of \$7 billion a year, the government may cancel next year's planned cuts in EI premiums.

When the Minister of Finance says he has cut taxes by \$100 billion, his figures assume a drop in EI premiums next year, another in 2003 and then another in 2004. The fact that he had to pass Bill C-2 to keep premiums from falling even further is beside the point. To date, he has called these planned tax cuts in EI and added them to his total figure.

Is the government planning to cancel further drops in EI premiums, and will the government cancel other tax cuts promised last year?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, clearly we will not know the budget for the following year until the budget has been announced.

However, I can assure the honourable senator that the government has, as he has indicated, consistently reduced EI premiums. To date, I know of no policy change with respect to that, which just proves once again that one should not always believe everything one reads.

Senator Stratton: A good point, except that when things get tough, one always becomes a little suspicious about what happens to the EI premiums because in the past we have built a very substantial surplus. As a matter of fact, the surplus is well above \$40 billion right now. Obviously, the government has used that to take credit for a substantial surplus.

Can the minister confirm that if the number of claims for regular benefits were to jump by 50 per cent next year, even if the premiums were to be cut to \$2 a year, the program would still run an annual surplus?

Senator Carstairs: As honourable senators well know, this government has consistently reduced EI premiums since 1994. This is the seventh consecutive year that EI rates have been reduced, bringing the total reduction to 82 cents since 1994.

Senator Taylor: Fantastic.

Senator Carstairs: That is an excellent record, and I see no reason why that record would not continue.

Senator Stratton: That is how the government built its surplus of more than \$40 billion — on the backs of the working Canadians. Do not talk to me about cutting taxes and good government management. It has been on the backs of Canadian workers and the EI premiums that they pay. How does the honourable leader respond to Canadians with respect to that issue?

Senator Carstairs: The honourable senator and I have had this discussion before, and I am sure that we will have it again. As he knows clearly, and as he has insisted that I state clearly, the Government of Canada is in such a good economic situation because of the Canadian taxpayers, the Canadian workers. There is no doubt about that. They sacrificed in order for us to rid ourselves of a \$45-billion-a-year deficit that was left to us by the Tories. They have sacrificed to bring down the debt. They have sacrificed to leave us in this economic position, and they have accepted, three times now, the leadership of the Liberal Party of Canada for doing it right.

Some Hon. Senators: Hear, hear!

Senator Stratton: Let us face the situation now. We are into a recession. If the depths of the recession are as severe as that of the early 1990s that took us into that deficit, will the leader be singing the same tune a year from now?

Senator Carstairs: The honourable senator does drive me to rhetoric.

Who was the government in the early 1990s, in 1991 and in 1992? It seems to me that it was the Conservative Party. No Liberal government would allow the depths of that kind of debt and deficit situation.

Senator Stratton: Did your government not allow it in 1983?

Senator Lynch-Staunton: Was not Mr. Chrétien the finance minister at that time?

INTERNATIONAL TRADE

UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT

Hon. Gerry St. Germain: Honourable senators, had it not been for the free trade agreement, which the Liberal Party viciously opposed, this government would have had no revenue at all. It was that initiative that turned the economy around. This is not just my statement. This statement has been made by some of the greatest economists in this country.

What would the minister say to the thousands and thousands of people in British Columbia today who are unemployed as a result of the ineptitude of this government in having entered into a softwood agreement in the past and having not fought the Americans like the government should have? What does the minister say about that?

• (1400)

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not agree with the honourable senator. I believe that good management has provided us with the kind of economic viability that we have today.

However, in terms of the specific question, which is a serious question, about the softwood lumber situation, I will say that negotiations are proceeding. The meetings earlier this month went extremely well. The representative of the United States seems to be keen and is participating, possibly because he knows there will be a serious reduction in the penalties that they can charge on December 14. That may well be bringing them to the negotiating table somewhat faster than in the past.

The reality is that the negotiations are ongoing. The minister responsible is holding firm and fast, and from his comments I would assume that is how he will remain.

TREASURY BOARD

ACCOUNTING PRACTICES WITH REGARD TO CALCULATING DEFICIT AS PERCENTAGE OF GROSS NATIONAL PRODUCT

Hon. Marjory LeBreton: Does the Leader of the Government in the Senate accept the standard accounting practice that reflects the deficit as a percentage of the gross domestic product, "yes" or "no"?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am not exactly sure what the honourable senator is driving at. Perhaps she could be more detailed in her question.

Senator LeBreton: Honourable senators, all countries in the world calculate their deficit as a percentage of the gross domestic product. It is an absolute fallacy to say that the Progressive Conservative government left the largest deficit.

The largest ever deficit in this country was left in the early 1980s by then Minister of Finance, Jean Chrétien, and former Prime Minister Pierre Elliott Trudeau, when it was 8.9 per cent of the GDP. The government of which I was a member got the deficit down to 4.6 per cent. Even with the worldwide recession of 1990-91, we left office with a deficit percentage of GDP that was 3 per cent lower than when we found it.

Senator Carstairs: Honourable senators, the reality is that the amount of money that was in that deficit was such that it infuriated Canadians. Canadians wanted a change of government. They got that change of government. That change of government has resulted in a surplus position for three years in a row.

Senator LeBreton: Canadians should be infuriated for believing such propaganda. Even the figures in the propaganda are not consistent.

When the Progressive Conservative Party left government, the deficit was 3 percentage points lower than when we were elected. Furthermore, when we left power, in November 1993, the newly elected Liberal government had until the end of the fiscal year to add up every single item, including the change in the accounting procedure on GST payments to increase the figure.

The figure in question is the percentage of the GDP. Any honest politician who speaks to issues such as the GDP or the deficit should speak in those terms.

Senator Carstairs: There is an expression that says that there are statistics, and there are facts, and there are damn lies, and sometimes we combine them. The reality is that Canada is better off today than it has been for a very, very long time.

Some Hon. Senators: Oh, oh!

Senator Carstairs: Quite frankly, the reason for that is the good governance provided by the Liberal government since 1993, and recognized by the Canadian people as good government in 1997 and again in 2000. If one reads the public opinion polls, one will see that we are being recognized at a higher and higher level.

Senator LeBreton: Honourable senators, that shows me what a fool's paradise the government is living in. In five years, our standard of living will be half that of the Americans, and we are all trapped here behind our borders thanks to a 62-cent dollar.

Senator Carstairs: With the greatest of respect, I consider myself a very proud Canadian and I do not consider myself trapped in any way, shape or form.

THE ECONOMY

INFLUENCE OF DEVALUATION OF DOLLAR

Hon. Leonard J. Gustafson: Honourable senators, my question is for the Leader of the Government in the Senate. How can the Leader of the Government in the Senate come to the conclusion that we are better off when we have a 62-cent dollar, when people with experience, like Conrad Black, say that the average Canadian has lost 40 per cent of the value of his holdings?

Some Hon. Senators: Oh, oh!

Senator Gustafson: That is absolutely true.

We are told here that the 62-cent dollar is a good thing. Recently in this chamber I raised the issue that we have lost sports teams such as the Montreal Expos, the Vancouver Grizzlies and the Winnipeg Jets.

Senator Taylor: We kept the Stampeders.

Senator LeBreton: Thanks to the PC government in Alberta.

Senator Gustafson: Today our farmers are worth half what they were five years ago. Our commercial real estate is worth much less than it was. How can we say we are better off?

Hon. Sharon Carstairs (Leader of the Government): The honourable senator begins with a sports analogy. Sports teams often trade with one another. I do not think a trade of Conrad Black for Nelson Mandela is such a bad trade.

Some Hon. Senators: Hear, hear!

Senator Carstairs: The honourable senator from Saskatchewan, has been arguing over the last few years that the WTO negotiations are going nowhere. I expected to see him rise today to congratulate the Government of Canada for what took place in Qatar last week, where the subsidy issue was placed first on the agenda for all future World Trade Organization meetings. That was a grand accomplishment. As someone who also represents an agricultural province, I have every hope that those negotiations will be as successful as the meeting last week.

INTERNATIONAL TRADE

WORLD TRADE ORGANIZATION MEETING IN QATAR— POSITION ON FARM SUBSIDIES

Hon. Leonard J. Gustafson: Honourable senators, the government has told the farmers of this country for the past

20 years that we will get the Europeans and the Americans off subsidies. The Standing Senate Committee on Agriculture and Forestry heard witnesses from the European Commission last evening and we heard quite the opposite. They said that they will look after their farmers.

The Archer Daniels & Midland Company has bought up much of the grain business in the Prairies. We are waiting for them to buy up the Saskatchewan Wheat Pool. Whether it is ConAgra or Cargill, Americans think that they have hit a bonanza where they can come in and buy up the entire country.

The same thing is happening in the oil industry. Companies like Gulf Oil, Phillips and Conoco are banding together and Canadian companies are being bought out. How can the minister say that that is good?

Senator Carstairs: Honourable senators, what I think is good is what came out of the WTO meeting last week. For the first time, subsidies, both national subsidies and subsidies of exporting nations, will be the primary issue. We have not seen that before. This is the first time that organization has managed to get the cooperation of all members in order to ensure, it is hoped, that this issue will come to the conclusion that we want, which conclusion Senator Gustafson certainly wants, by January of 2005. We were not successful in Seattle, as he knows. He was there and tried to bring it about. This time we were successful.

• (1410)

Bravo, Canada. Well done, Minister Pettigrew. Well done, Minister Vanclief. You have succeeded where many previous ministers have not.

THE ECONOMY

INFLUENCE OF PRODUCTIVITY OF UNITED STATES ON INVESTMENT

Hon. Roch Bolduc: Honourable senators, the Leader of the Government in the Senate has told us that the Canadian government's finances were in good shape. Could she tell us whether the Canadian economy is in good shape? That is what is important.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, today's Organization for Economic Co-operation and Development report certainly indicates that the economy of Canada is functioning much better than that of the United States. We are all awaiting with anticipation the budget that will come down in two or three weeks. We will know the exact date soon. Then, we will know exactly what our circumstances are.

However, by way of example, last month, inflation decreased a considerable amount. Not all parts of the country, not all industry and not all sectors are performing as well as we would like, but overall the economy is doing well.

[Translation]

Senator Bolduc: Honourable senators, the Leader of the Government in the Senate is judging the economic situation on a month-to-month basis. What has happened over the past eight years, since the Liberal Party took office? Canada's relative productivity compared to the U.S. economy has dropped, which is why we have a 62-cent dollar. This is a reflection of the fact that the Canadian economy is not as productive as the American. Why is that? It relates to the present government. The present government is still taxing capital. Canada needs capital for investment. It would increase our productivity and yet the present government is taxing it at the present time, which is terrible.

[English]

Senator Carstairs: Honourable senators, it is interesting that those on the other side like to preach doom and gloom. To be fair, having sat on the other side. I, too, used to preach doom and gloom. It is one of the things one does when one sits on the other side. One preaches doom and gloom.

I suggest to you today that there is some good news out there. We can lighten our outlook, get ready for the Christmas season and the budget, and we will learn that not all the doom and gloom scenarios are justified.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, it is my pleasure to table two delayed answers, first to the question raised by Senator Kinsella on October 23, 2001 on the subject of generic drugs testing and, second, to two questions raised by Senator Forrestall on October 23 and 25 on the subject of the elimination of specialized platoons.

HEALTH

PURCHASE OF GENERIC ANTI-ANTHRAX DRUG— ACQUISITION PROCESS—TESTS TO DETERMINE SAFETY

(Response to question raised by Hon. Noël A. Kinsella on October 23, 2001)

Health Canada is responsible for evaluating the safety, efficacy and quality of drugs. The current process for evaluating drug products has been in place for almost thirty years and it applies equally to brand name and generic drugs. Health Canada conducts its evaluation of drugs in accordance with the *Food and Drugs Act* and Regulations. Health Canada issues guidelines and policies which provide specific guidance including assessment criteria for the evaluation of drug submissions. Such policies and guidelines are established through an open and transparent

process and are comparable to, and in some instances superior to, those of other countries.

Just as with brand name drugs, generic drugs are subject to a full review process in accordance with the *Food and Drugs Act* and Regulations.

The safety and efficacy of a generic drug product is generally established through the requirement of comparative bio-availability studies in healthy human volunteers instead of repeating all of the clinical studies conducted by the sponsor of the brand name product.

With respect to drug quality, the chemistry and manufacturing data requirements are identical for generic and brand name products.

The manufacturer is required to provide sufficient stability data in order to establish the shelf life of the product. Health Canada approves the shelf life of the product based on the data provided.

NATIONAL DEFENCE

ELIMINATION OF HAZARDOUS MATERIALS PLATOONS FROM INFANTRY BATTALIONS

(Response to questions raised by Hon. J. Michael Forrestall on October 23 and 25, 2001)

The Army is studying its organization with the purpose of modernizing the force structure to meet contemporary and future threats. The future of Pioneer Platoons is one of many items under consideration. No final decision has been taken with regard to this restructuring process.

ORDERS OF THE DAY

NUNAVUT WATERS AND NUNAVUT SURFACE RIGHTS TRIBUNAL BILL

MOTION TO DECLARE BILL NULL AND VOID ADOPTED

On the Order:

Second reading of Bill C-33, respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts.

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with respect to the first item on the Order Paper under Government Business, the copy of the bill currently before us does not faithfully represent the bill passed by the House of Commons. In fact, the amendments passed in the House were omitted. As this is not a true copy, we cannot continue debate on this item as it appears before us.

Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(i), I move:

That, notwithstanding rule 63(1), the proceedings on Bill C-33, respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts, which took place on Tuesday, November 6, 2001, be declared null and void.

[English]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, as indicated yesterday when we were considering this matter, we wanted the opportunity to consult through the usual channels, which we have done.

It is my understanding from those consultations that if we could dispose of this bill in the manner that has been indicated by my honourable colleague, Senator Robichaud, we would then proceed to adopting a resolution to send a message to the House of Commons informing that House of our decision, and that the Senate attends any message that the House of Commons may have regarding the matter.

There are two parts to this approach. That is my understanding of the model under which we would be proceeding, based upon the discussions that have been held. If that is my colleague's understanding, we would grant leave.

[Translation]

Senator Robichaud: Honourable senators, our agreement was based on two phases. First we would withdraw the bill and declare it null and void. The second phase will take place tomorrow or at another sitting.

[English]

Senator Kinsella: In order to expedite the matter, if it is the will of the chamber I would move an amendment now to Senator Robichaud's motion. My motion in amendment would be:

; and

That a message be sent to the House of Commons informing that House of this decision and that the Senate attends any message that the House of Commons may have regarding the matter.

The Hon. the Speaker: To clarify, the motion that Senator Robichaud read has not been put. We are having an exchange now between deputy leaders.

[Translation]

Senator Robichaud: Honourable senators, Senator Kinsella's motion creates no problem for me. I was under the impression that consideration of Bill C-33 would be in two phases. That is what the senator said when he first addressed the issue. We would go on to the second phase tomorrow or at a later sitting,

once we were sure of the procedure to be followed. I would prefer to do as the senator had proposed in the first place.

[English]

Senator Kinsella: Honourable senators, on that basis we would grant leave. The motion of Senator Robichaud could be properly put and I shall rise and move an amendment thereto. The leave is granted.

• (1420)

The Hon. the Speaker: It is moved by the Honourable Senator Robichaud, PC, seconded by the Honourable Senator Rompkey, PC, with leave of the Senate and notwithstanding rule 58(1)(i):

That, notwithstanding rule 63(1), the proceedings on Bill C-33, respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts, which took place on Tuesday, November 6, 2001, be declared null and void.

Is it your pleasure, honourable senators, to adopt the motion?

MOTION IN AMENDMENT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I support the motion. I move in amendment, seconded by the Honourable Senator Stratton:

;and

That a message be sent to the House of Commons informing that House of this decision and that the Senate attends any message that the House of Commons may have regarding this matter.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment of Senator Kinsella?

Hon. Senators: Agreed.

The Hon. the Speaker: Carried.

Is it your pleasure, honourable senators, to adopt the main motion as amended?

Hon. Senators: Agreed.

Motion agreed to, as amended.

AGRICULTURE AND FORESTRY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Leave having been granted to revert to Notices of Motions:

Hon. Leonard J. Gustafson: Honourable senators, I give notice that, on Thursday, November 22, 2001, I will move:

That the Standing Senate Committee on Agriculture and Forestry have the power to sit on Thursday, November 29, 2001, at 3:30 p.m. to hear from the Minister of Agriculture and Agri-Food, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

YOUTH CRIMINAL JUSTICE BILL

REPORT OF COMMITTEE—POINT OF ORDER—
SPEAKER'S RULING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Milne, seconded by the Honourable Senator Rompkey, P.C., for the adoption of the Tenth Report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill C-7, in respect of criminal justice for young persons and to amend and repeal other Acts, with amendments) presented in the Senate on November 8, 2001.

The Hon. the Speaker: Honourable senators, there is a point of order on this matter, and I am prepared to rule now. The ruling that I am about to read will be distributed as I read it.

[Translation]

On Tuesday, November 20, Senator Milne in her capacity as the Chair of the Standing Committee on Legal and Constitutional Affairs moved the adoption of its 10th report which seeks to amend Bill C-7, in respect of criminal justice for young persons and to amend and repeal other Acts.

[English]

At the conclusion of her remarks summarizing the various amendments that the committee was recommending be made to the bill, Senator Milne indicated that she herself would be voting against the adoption of the report. For this reason, Senator Milne also declined subsequently to answer any questions about the report following her summation. The declaration of Senator Milne that she intended to vote against the report caused Senator Lynch-Staunton to rise on a point of order. While commending the Chair for her honesty, the Leader of the Opposition questioned the procedural propriety of having a chair sponsor a report that she does not support. Senator Lynch-Staunton asked me as Speaker to make a ruling with respect to this practice.

This request was followed by several interventions. Senator Taylor noted that an incident similar to this one had happened before. He is right, as it turns out. It occurred in 1987 when Senator Gitter as Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources presented a report on Bill C-29, the MMT bill, to which he disagreed. On this occasion, I can find no evidence that the senator actually voted against the bill, since no recorded vote was taken. There are, however, two other more telling examples. The first occurred with respect to Bill C-68, dealing with gun control. A report was

presented November 20, 1995, by the Chair of the Standing Senate Committee on Legal and Constitutional Affairs, at that time Senator Beaudoin. Two days later, the Chair voted against the adoption of the report in a recorded division. The second example dates from January 1991. At that time, the Chair of the Standing Senate Committee on Transport and Communications, former Senator Findlay MacDonald, presented a report on Bill C-40, dealing with broadcasting. When the recorded vote on the report was taken, the results confirmed that Senator MacDonald voted against it.

[Translation]

In a subsequent intervention, Senator Taylor referred to citation 873 in the sixth edition of *Beauchesne's Parliamentary Rules and Forms* which explains the obligation of a committee chair, or someone else delegated for the purpose, to sign a report on behalf of the committee in order to authenticate it. This is done whether or not the chair actually supports the report adopted by the committee.

[English]

The position taken by Senator Taylor dovetailed with remarks previously made by Senator Kinsella who had based many of his comments on the meaning of Senate rules 98 and 99. These two rules require that a committee recommending amendments to a bill to report these amendments and the senator presenting the report "shall explain to the Senate the basis for and the effect of each amendment." According to Senator Robichaud, this is exactly what Senator Milne had done. As Chair of the Standing Senate Committee on Legal and Constitutional Affairs, Senator Milne presented the report on Thursday, November 8, and yesterday she moved its adoption and provided an explanation of its recommendations.

For her part, Senator Cools took a somewhat different position. In her view, the chair, like every other member of the committee, is bound by its decisions. According to the senator, it is only through a process of debate in this chamber that any member of the committee, or perhaps the Senate for that matter, can come to a position different from that stated in the committee's report. Senator Cools also referred to rule 99 which, as she interprets it, imposes an obligation on the sponsor of the report to provide a suitable and proper explanation of the amendments recommended by a committee.

• (1430)

Senator Corbin also intervened on this point of order. Speaking just before Senator Cools, Senator Corbin made two points. First, the senator explained that a committee chair functions as a messenger of the committee and is bound by this function to present its report to the Senate. Such a role, he stated, does not commit the chair "ideologically, morally, personally or in any other fashion to the contents of the report." Second, in response to Senator Kinsella, Senator Corbin noted that anyone wishing to know the position of individual committee members with respect to the amendments can consult the transcript of the committee's deliberations.

[Translation]

I want to thank all honourable senators who spoke to this point of order yesterday. I have reviewed the authorities that were cited and have looked at our relevant precedents. Not wishing to delay unduly the proceedings on this report, I am prepared to make my ruling now.

[English]

In ruling on this point of order, I am conscious of the need not to interfere with the legitimate proceedings of a committee. I do not believe that I am, since we are dealing with the report of the committee in this chamber. I have been asked to determine whether or not it is procedurally acceptable for a chair of a committee to present a report of that committee even though the chair disagrees with it and, in fact, has stated an intention to vote against it.

In order to answer this point of order adequately, I think it is useful to review briefly the process that we follow in considering legislation. Once a bill has been adopted at second reading and agreed to in principle, it is usually assigned to a committee for detailed examination. This normally involves hearing witnesses prior to going through the bill clause by clause. At this stage, it is proper to consider amendments, which, if adopted, become the basis of the committee's report that it must make to the Senate according to rule 98. Further, rule 99 requires the senator who is sponsoring the report to explain the basis for and the effect of each amendment. This is what happened yesterday when Senator Milne spoke to the report on Bill C-7.

Our rules, however, are silent on the matter that was raised in the point of order by Senator Lynch-Staunton. Nonetheless, I think it is possible to come to an understanding as to whether or not what occurred is acceptable procedurally. Under our rules and practices, decisions of the committee, just like those of the Senate itself, are made by the majority. There is no binding obligation for consensus or unanimity. The fact that a bill receives second reading, for example, does not mean that all members of the Senate agree with it and will no longer oppose the bill either at report stage or third reading. Nonetheless, the decision stands as a legitimate decision of the Senate and is, in this limited sense, binding.

Similarly, in a committee, decisions are reached by a majority. There is no requirement for all committee members to agree in order for it to report a bill back to the Senate. Accordingly, it is possible that the chair of the committee may disagree with all or part of a report. Nonetheless, as Senator Taylor pointed out through his reference to Beauchesne's, the chair will sign the report, authenticating it. As Senator Corbin suggested, in presenting the report the chair is really acting as a messenger of the committee. Once the requirement of rule 99 to explain the amendments has been carried out, the chair or whoever is the sponsor of the report is under no additional obligation. If the chair should ever be uncomfortable in carrying out this function, arrangements can be made under our rules to find another member to act as sponsor of the report. Such a decision, however, does not rest with the Speaker. This can only be

determined by the chair as allowed under rule 97(1), which states:

A report from a select committee shall be presented by the chairman of the committee or by a Senator designated by the chairman.

Accordingly, I find there is no point of order in this case, and debate on the report of the committee on Bill C-7 can proceed.

[Translation]

Hon. Gérald-A. Beaudoin: Honourable senators, I wish to say a few words at the consideration stage of the tenth report by the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-7.

First, I feel that paragraphs 76(1)(b) and 76(1)(c) must be amended. If Bill C-7 is passed as is, a young offender could serve his sentence in a provincial correctional facility for adults. This could be detrimental to the youth sentencing system. The Supreme Court has repeatedly recognized the need for a separate youth justice system.

Paragraphs 76(1)(b) and 76(1)(c) must therefore be replaced by the following:

(b) an area of a provincial correctional facility for adults separate and apart from any adult who is detained or held in custody;

(c) if the sentence is for two years or more, in an area of a penitentiary separate and apart from any adult who is detained or held in custody.

There is no doubt that one of the objectives of the Youth Criminal Justice Act must be to protect society. Should it be the first? This puts the needs of the youth second. The absence of any notion of balance between the needs of the youth and the protection of society means that the lines between the youth sentencing system and the one for adults will be increasingly blurred. However, as I said, the Supreme Court has repeatedly recognized the need for a separate youth justice system.

My second point has to do with clause 146. I feel that clauses 146(5) and (6) should be deleted. Clause 146(5) provides for the admissibility of a waiver of certain rights — such as the right to counsel — made in spite of technical irregularities. This adversely affects the procedural rights of the youth. In my opinion, if the waiver is not properly obtained, any evidence thus collected should automatically be excluded.

The Canadian Bar Association suggested that the statement and the evidence be automatically rejected in such a case. The Supreme Court feels that, in order for a waiver of the right to consult with counsel to be valid, the person arrested or detained must realize, when the waiver is made, all the consequences of his decision. In *Smith*, the Supreme Court of Canada specified the factors to be taken into consideration when a waiver of the right to counsel is made.

In that case, Smith was arrested following a shooting. Immediately after his arrest, he was informed twice of his right to consult with a lawyer. He refused to do so and subsequently made an incriminating statement. When police officers interrogated Smith, they omitted to tell him that the victim had died following the shooting.

However, it appears that the accused had a general knowledge of the risks involved in waiving his right to counsel. According to the Supreme Court, that knowledge is sufficient.

In *Whittle*, the Supreme Court looked at the waiving of one's right to consult a lawyer. The criteria governing the waiving of that right were written by Mr. Justice Sopinka on behalf of the court. These criteria are based on the operating mind of a person.

• (1440)

This test requires that the accused understand what he or she is saying, and that it could later be used against him or her. Justice Sopinka explains the scope of this test. I quote:

The operating mind test, which is an aspect of the confession rule, includes a limited mental component which requires that the accused have sufficient cognitive capacity to understand what he is saying and what is being said. This includes the ability to understand a caution that the evidence can be used against the accused.

The same standard applies with respect to the right to silence in determining whether the accused has the mental capacity to make an active choice.

In exercising the right to counsel or waiving the right, the accused must possess the limited cognitive capacity that is required for fitness to stand trial. The accused must be capable of communicating with counsel to instruct counsel, and understand the function of counsel and that he can dispense with counsel even if this is not in the accused's best interests. It is not necessary that the accused possess analytical ability. The level of cognitive ability is the same as that required with respect to the confession rule and the right to silence: the accused must have the mental capacity of an operating mind. As I mentioned before, the accused must have the cognitive capacity that comes from an operating mind.

Lastly, subclause 146(6) provides for a provision whereby a statement may be considered admissible despite technical irregularities. In my opinion, this violates the procedural rights of the adolescent and diminishes the protection of rights conferred upon adolescents.

In my opinion, irregular statements, even if the irregularity is of a technical nature, must be deemed inadmissible. If the statement or waiver is admitted, it could have a negative effect on the administration of justice in Canada.

On motion of Senator Cools, debate adjourned.

[English]

ANTI-TERRORISM BILL

REPORT OF SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-36—DEBATE CONTINUED

On the Order:

Resuming debate on consideration of the first report of the Special Committee of the Senate on the Subject Matter of Bill C-36, to amend the Criminal Code, the Official Secrets Act, the Canada Evidence Act, the Proceeds of Crime (Money Laundering) Act and other Acts, and to enact measures respecting the registration of charities in order to combat terrorism, tabled in the Senate on November 1, 2001.

Hon. James F. Kelleher: Honourable senators, I rise today to speak to the report of the Special Committee of the Senate on the Subject Matter of Bill C-36. First, I must commend my colleagues on the committee for their extraordinary efforts and for producing what I believe to be an outstanding report. The committee worked day and night to produce this report. We were working not only to satisfy the government's timelines, but also because we all felt a sense of urgency following the tragic events of September 11.

The committee heard from dozens of witnesses and several ministers. After some thought-provoking internal debate, the committee came together to produce a series of recommendations that we believed would improve this bill and create a better balance between the needs of the government to combat terrorism and the individual rights of every Canadian.

Senator Fairbairn outlined the committee's recommendations to you two weeks ago when she spoke in support of our report. I do not intend to recite them again here today. However, in light of the testimony of the Minister of Justice yesterday to the House Justice Committee, I do have several comments to make.

The Minister of Justice stated yesterday that the government is prepared to amend Bill C-36 in several ways to respond to the recommendations of the special Senate committee and to those of many other observers. We on this side of the chamber are pleased with the proposed amendments that will refine the definition of terrorist activity and will ensure that knowledge is a necessary component of any offence of facilitating terrorist activities.

We are also pleased that the powers of the Attorney General to prevent the release of information have been circumscribed. The Attorney General will still be able to issue a certificate to prevent the release of information, but the certificate will now be reviewable by the Federal Court of Appeal. This is a step in the right direction.

We are concerned, however, that no officer of Parliament will be appointed to monitor the exercise of powers granted by this bill. It is all very well and good that the Attorney General and Solicitor General will report to Parliament annually about the exercise of the powers under this bill, but independent monitoring is still necessary.

The powers granted by this bill are extraordinary. We need an independent body to ensure that they are not abused. It is not enough to have those who could potentially abuse these powers to be the ones reporting whether the powers have been abused or not.

We are also very concerned about the so-called sunset clause that the Minister of Justice is proposing. The special committee recommended a sunset clause for the entire bill, except for those provisions dealing with our international commitments. The government now proposes to sunset only two sections of the bill — those dealing with preventative detentions and investigative hearings. This is not enough. The committee believes that when the government wants to obtain all the extraordinary powers contained in this bill, it should have to establish the need for these powers, not only in the first instance but on a regular basis thereafter.

Furthermore, the sunset clause that has been proposed does not even require the government to reintroduce the affected provisions. Instead, Parliament will be asked to vote on whether to extend the provisions. Since majority governments generally do not lose these votes, the conclusion becomes foregone and the clause relatively meaningless. The only effective sunset clause is that which requires the government to reintroduce the bill. Only in that way are Canadians assured of a full debate and the opportunity to be heard. We, as parliamentarians, must ensure that Canadians get that debate and that opportunity.

Our party has other concerns about what the Minister of Justice said or, more important, what she did not say. I will save some of these for when the bill arrives in this chamber. Let me be clear about one thing, however. It is our intention to again review this bill and any amendments to it as thoroughly as possible. This legislation is simply too important to be dealt with in undue haste. The government's own recognition of some of the bill's flaws is evidence enough of what happens when bills are drafted in a rush.

Before I conclude, there is one other comment I wish to make.

• (1450)

Honourable senators who have read the committee's report will know that several members of the committee, myself included, had serious concerns about the adequacy of Canada's immigration and refugee policies in the wake of the events of September 11. As far as we know, no new steps have been taken since September 11 to ensure that our immigration and refugee policies are as strong as they can be to deter would-be terrorists from entering Canada. This is a shocking omission, in our view.

The Minister of Citizenship and Immigration was invited to appear before the special committee, but she declined. Why she declined, I have no idea.

Fortunately for us, the Minister of Justice undertook to take our concerns to the Minister of Citizenship and Immigration and to Minister Manley's National Security Committee. A letter was drafted on behalf of committee members outlining our concerns and was signed by the chair of the committee and by me. The letter was sent to Minister McLellan, and we are now awaiting a response.

Honourable senators, I believe that the special committee has fulfilled your requirements. In a very short time, we took a careful look at some of the most important provisions of Bill C-36 and produced a useful report. I am hopeful that the chamber will adopt it.

On motion of Senator Robichaud, debate adjourned.

BILL TO REMOVE CERTAIN DOUBTS REGARDING THE MEANING OF MARRIAGE

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Wiebe, for the second reading of Bill S-9, to remove certain doubts regarding the meaning of marriage.—(*Honourable Senator Banks*).

Hon. Tommy Banks: Honourable senators, I have the honour to rise today to speak to Bill S-9. In that respect, it has been said that, today, gay and lesbian couples are confined to a nebulous state. That is right. I, for one, believe that society ought to correct that obvious shortcoming. We must find, sooner or later, a word or a term to properly describe the union between a man and a man or between a woman and a woman.

We have brought a degree of redress of rightness to same-sex couples in respect of pension rights and succession. Now, society needs to find the right word or phrase to describe the state into which same-sex couples enter. However, that word is not, in my strongly held opinion, "marriage."

Honourable senators, the idea of finding or coining a new word or phrase or usage is not only not rare, but it is one of the glories of the great languages of which we are so proud. It is also a process that has been invoked specifically having to do with homosexuality. The term "gay," for example, while it was used by the homosexual community for many years before it came into common usage, is a relatively new term as it applies to male homosexuals. It is now a word that is quite specific as a descriptive, which is now used with propriety and confidence in common social discourse. It replaces, happily, a long and despicable list of terms that are now consigned quite properly to the dustbins of bigotry.

We must find such a term or a word, but it is not "marriage." It may be as simple as the words "same-sex union" or "same-sex partnership," or it may be more creative than that. However, there needs to be a clear distinction between marriage, on the one hand, and a homosexual relationship, however loving, on the other hand. They are clearly not the same thing. In many respects, they are similar, and there are certainly many examples of such unions that are, to my direct personal knowledge, unassailable examples of constancy, of responsibility and of true lasting love; but they are not the same thing.

Honourable senators, we must not use section 15 or any other section of the Charter to bring about changes in the meaning of words. We cannot ignore the facts of life or the words of our languages.

The word "marriage" is laden with such weight of history, of practice, of application, of common usage and of universal understanding in its various translations as to make it impossible to apply in any way other than the one that is known and understood in every society on every continent, and which transcends virtually all races, languages, religions and geography.

Honourable senators, you heard from Senator Cools, the author of Bill S-9, and from Senator Wiebe, its seconder, definitions from several good dictionaries. They have kindly, or perhaps inadvertently, omitted to quote from "the" lexicographical authority in English, the *Oxford English Dictionary*, which defines "marriage" as:

...condition of man and woman legally united for purpose of living together and usually procreating legal offspring.

That definition is irrefutably clear.

It has been suggested that given all the good changes in pension rights, adoption, spousal support and the like, a move to calling same-sex unions "marriage" would be merely symbolic; but it would not. It is a matter of the most cogent substance.

Lord Birkenhead said:

...marriage is more than a simple contract between spouses, or a thing which they can dissolve by their own acts and choice, even consensually. It is a status involving other and more important interests.

More recently, Mr. Justice Pitfield called marriage "a deep-rooted social and legal institution," the legal nature of which is so entrenched in our society that Parliament, and not the court, must decide its definition.

Honourable senators, we must decide on the definition which is universally understood and which is contained in Bill S-9. I urge all honourable senators to recognize and acknowledge the rightness of this bill, and to support its passage.

On motion of Senator Finnerty, debate adjourned.

[Translation]

THE SENATE

TIME ALLOTTED FOR TRIBUTES—INQUIRY—
DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Lapointe calling the attention of the Senate to the time allotted for tributes.—(*Honourable Senator Gill*).

Hon. Eymard G. Corbin: Honourable senators, we owe a debt of gratitude to Senator Lapointe for this inquiry concerning the time devoted to tributes.

• (1500)

This is particularly important because such activities tend to take place right at the beginning of a sitting and may go on for over an hour delaying the more important points we have to address as senators.

I do not wish in any way to detract from the dignity of the senators, who rightly deserve our recognition and tribute, but it seems to me that there ought to be a more formal framework for this, an approach on which we must reach agreement.

As Senator Lapointe and others have suggested, it would seem best for our leaders in the Senate, or someone they have delegated to do so, to deliver tributes of this type. Senator Lapointe has even suggested that an especially good friend of the senator in question might rise to deliver a tribute.

This is not what is happening now. After the daily prayers, away we go, and we never know when it will end. This is somewhat stressful, especially since, sometimes, people get carried away. The speakers go into details of people's private lives, as if there were no places besides the Senate such speeches could be made.

It has been forgotten that a party is also held for departing senators, an excellent opportunity for such tributes. As for tributes when someone dies, funerals now include an opportunity for people to get up in church and pay tribute to the deceased. As well, we seem to have lost touch with the old-fashioned habit of writing letters to people. In the past, if we had something private to say to someone, we wrote a letter. Literature abounds with epistolary works. The demise of this practice has brought a lot of business to the makers of greeting cards with ready-made messages.

I am happy that Senator Lapointe made his first motion of inquiry on this subject. He comes to this with a fresh perspective, as opposed to the rest of us, who are sometimes quite set in our ways. He was inspired by his father, who was a member of Parliament many years ago. We must thank him. Now, it is time to take the bull by the horns. We have spoken about this matter on numerous occasions, but nothing has happened. I fear that once this issue is referred to the Senate Standing Committee on Rules, Procedures and the Rights of Parliament, it will sit on the shelf and collect dust. There are so many issues on which this committee has not been able to make any progress, that it is becoming embarrassing.

We could, if senators are insistent on paying never ending tribute to their departing colleagues, designate a time outside that of our official business. Why not begin Thursday sittings — for example, since everyone is eager to leave early on Thursdays — at 11:00, in order to deal with these tributes.

Obviously, there would be committees sitting at the same time, but all we need is quorum and the attendance of those senators who are interested. At the same time, we could also deal with a whole host of other issues that are not urgent, in the strict sense of the term, such as senators' private initiatives, motions and private bills. In the other place, after adjournment, they can attend to these types of issues that may not necessarily interest everyone, or may not concern the assembly as a whole.

This way, at least there would be an outlet, a time when all other kinds of things could be dealt with that do not pertain to the business of government legislation, committee reports and so on. This is my suggestion, but I do not feel strongly. I have made suggestions in the past that have been promptly disregarded, but I believe that we do not use the time at our disposal properly.

Like Senator Lapointe, I think that we have reached a point of extreme exaggeration. It is even embarrassing. Frankly, I am in no hurry to leave this place, if I do not go out feet first before then. It is time to sort this out.

Hon. Jean-Claude Rivest: Honourable senators, I wish to add my voice to that of Senator Lapointe, the sponsor of this initiative. Senator Corbin has just examined all aspects of the issue and indicated why this chamber should support the motion made by Senator Lapointe.

I would merely point out that we had the same problem in the National Assembly when paying tribute to members or singing the praises of Canadians who had distinguished themselves in some way. An agreement was reached between the Leader of the Government and the Leader of the Opposition in the Assembly.

First, it was agreed that the National Assembly would express its sentiments about one of its members or a public personality. This is one of the duties of a parliamentary institution.

Second, it was decided to do so within the framework of a motion consistent with the procedure and rules of the National Assembly. It is an unannounced motion to have the person concerned or their family receive an official document from the

assembly expressing regrets over their departure or death and paying tribute to them for their accomplishments.

Third, in these circumstances, the Premier or one of his representatives, or the Leader of the Opposition or one of his representatives, speaks for a limited time in the National Assembly. Five minutes is allowed, but this is not hard and fast.

• (1510)

Of course, it is possible for a member of the National Assembly who has a special interest or who has a special relationship with the person in question to pay tribute to that person. The idea is not to set rules that are too strict, but to limit ourselves and, above all, to use common sense. It involves acknowledging the absolute need for a parliamentary institution to recognize the merit of its members and to occasionally point out the achievements of our fellow citizens and the distinction with which they fulfil their responsibilities.

I congratulate Senator Lapointe and I can assure him of our full support in his representations to the Standing Senate Committee on Rules, Procedures and the Rights of Parliament which, hopefully, will examine this issue.

[English]

Hon. Bill Rompkey: Honourable senators, I wish to thank Senator Lapointe for bringing forward this important motion. I associate myself with the remarks of Senator Corbin, who made the points I wanted to make. I was particularly struck by his comments about quorum on Thursday, which I wholeheartedly support. However, that is not the only point I support.

I believe it was the Pope who said that brevity is the soul of wit. We do not necessarily honour people with a great many words. There was another poet, whose name I cannot remember at the moment, who said that, for the important things in life, there is really only silence. Many people when paying tribute often start by saying "Words cannot express..."

Words can do honour, but a few words can do just as much honour as a great many words. As Senator Corbin said, we have other fora for expressing honour for our colleagues.

This is a practice that we should reform. I support Senator Lapointe and I thank him for bringing forward this motion.

[Translation]

Hon. Aurélien Gill: Honourable senators, in light of the various comments made regarding the time allotted for tributes by senators, it seems perfectly reasonable to me to support such a suggestion.

Based on the experience and wisdom that we have probably gained to various degrees as senators, I am confident that we can strike the right balance regarding the time allotted for tributes. I support Senator Lapointe's motion, while hoping that we will allow enough time for tributes and for fulfilling our duties as representatives of our constituents.

Hon. Marisa Ferretti Barth: Honourable senators, I fully support Senator Corbin's comments. I have noticed for a long time that the time allotted for tributes was much too long.

At times, I have wondered whether it might be better to pay tribute to someone while the person is still living. Who listens to these sometimes endless tributes? On several occasions, I have noticed that those who pay tribute to other persons often get lost in childhood memories, with the result that new senators are left wondering who they are really talking about.

In my opinion, it is better to avoid getting lost in childhood memories that are of no interest to us. It would be preferable to say very specific and honourable things about the deceased senator. If we did so while he is still alive, we could take that opportunity to tell him how good a job he did and how good a colleague he was.

[English]

The Hon. the Speaker: Is the Honourable Senator Lapointe rising to ask a question?

[Translation]

Hon. Jean Lapointe: I respect the decision of all honourable senators who wish to participate in tributes to one of their own.

[English]

The Hon. the Speaker: Senator Lapointe, Senator Cools wishes to adjourn the debate so that she might speak to your motion at another time.

Hon Jean Lapointe: I do not want it to go on any longer.

The Hon. the Speaker: Let me explain. The Honourable Senator Lapointe has the right to speak, but if he speaks his speech will have the effect of closing debate on the inquiry.

Senator Lapointe: That is what I want.

The Hon. the Speaker: I know. However, my job is not to limit debate but, rather, to provide honourable senators with an opportunity to speak, and Senator Cools wishes to speak. I feel obliged to recognize Senator Cools on debate.

On motion of Senator Cools, debate adjourned.

UNITED STATES NATIONAL MISSILE DEFENCE SYSTEM

MOTION RECOMMENDING THAT THE GOVERNMENT
NOT SUPPORT DEVELOPMENT—MOTION IN AMENDMENT—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Roche, seconded by the Honourable Senator Finestone, P.C.:

That the Senate of Canada recommends that the Government of Canada avoid involvement and support for the development of a National Missile Defence (NMD) system that would run counter to the legal obligations enshrined in the Anti-Ballistic Missile Treaty, which has been a cornerstone of strategic stability and an important foundation for international efforts on nuclear disarmament and non-proliferation for almost thirty years.

And on the motion in amendment of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Bacon, that the subject-matter of this motion be referred to the Standing Senate Committee on Defence and Security for study and report back to the Senate.—(*Honourable Senator Taylor*).

Hon. Nicholas W. Taylor: Honourable senators, this motion concerning the national missile defence system was moved by Senator Roche. He wanted the Senate to investigate shutting the whole thing down. I, too, was thinking along those lines, until the last several weeks. It seems there is so much progress being made by Mr. Bush of the U.S. with Mr. Putin of Russia that, perhaps, we should wait. However, being an old Alberta farm boy, when I see a Texas oilman going against a former chief of the Russian state police, I do not know who will win. Nevertheless, they are apparently negotiating something involving the NMD and the ABM treaty.

The subject has now become extremely obscure and convoluted, especially with terrorism thrown in. There was a recent article in the *National Post* — which I hate to quote, but now and again I guess one has to — that mentions that there are certain ballistic missiles available to terrorists. All told, this sets up a set of questions and concerns that I think would be best handled by Senator Finestone's amendment that the subject matter of the motion be referred to the Standing Senate Committee on National Security and Defence for study and report back to the Senate.

On motion of Senator Stratton, debate adjourned.

● (1520)

BIOLOGICAL WEAPONS AND BIOWARFARE

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Finestone, P.C., calling the attention of the Senate to the issue of biological weapons and biowarfare.—(*Honourable Senator Finestone, P.C.*).

Hon. Sheila Finestone: Honourable senators, I said that I would talk to the fact that terrorism is real, immediate and evolving, and that we must remain vigilant.

We are in a race with the dark side of biomedical science and the capacity for the development of genetically engineered pathogens for mass destruction is now a reality. Understanding the ways in which terrorists may exploit biotechnology is crucial.

We are in a race for advanced technology, but at what cost? As science has worked diligently to alleviate suffering, it has also placed in the hands of our enemy potential tools of mass destruction.

We are in a race to develop effective defences to protect and preserve the physical and psychological health of our population. We are well aware that a negative synergy can be created between a weak population and its ability to respond to enemy attack.

As I reflect on the threats to Canadian security, what strikes me the most is the accelerated pace of change in so many sectors that affect our national defence. My concerns focus overall on five major trends — globalization, proliferation, communications, demographics and biotechnology. Rapid evolution in these sectors has certainly favoured terrorist warfare.

Starting with globalization, I must admit to being a strong advocate of the global village. I believe that the increasing flow of people and the sharing of information, technology, ideas and education is a positive, dominant force for the improvement of the human condition around the world. Yet I have come to realize that in some ways globalization has exacerbated local and regional tensions, amplified the possibility of conflict and empowered those who are doing us harm. As globalization is independent of any national policy, it creates fertile grounds for political, ethnic, ideological and religious extremism. Globalization of information technology has made available to smaller groups, states and individuals destructive capabilities, previously limited to major world powers.

Globalization also favours terrorists to engage in violent attacks against policies, facilities, interests and the values and lifestyle of the people of a targeted country. Within the larger view of a global society, terrorist groups remain a key challenge to western security. We are witnessing this situation within the current state of world affairs.

Second, proliferation of bioweapons is accelerating. State-sponsored programs and new asymmetrical associations between state and private companies, disgruntled engineers, fanatics and radicals are exploiting the increased accessibility to computer-based information, weak export controls, and availability of technologies.

Third, let us take a look at communications. The same communications technology that has greatly helped law enforcement and intelligence has, at the same time, enabled terrorists to advance their capabilities. E-commerce and technologies that allow consumers to search out and buy goods on-line have also allowed terrorists to attract financial resources, spread terrorist dogma, find recruits and plan operations from afar. Terrorist groups using the Internet to acquire information

build the capability for chemical and biological attacks and to obtain unconventional weapons to carry out their misguided religious duty.

Fourth, present global demographic trends can further precipitate adverse attacks. In a recent UN study we learned that the world's population would increase by more than a billion by the year 2015 with 95 per cent of the growth occurring in underdeveloped countries. This has much significance. According to the experts these trends will have a dramatic impact on world stability, as many will struggle to cope in impoverished lands, many others will join uncoordinated reactionary groups, thereby creating additional sources of political stress and instability.

Finally, let us focus on biotechnology. Innovations on the biomedical sciences can be used for good or bad purposes. On one hand, new discoveries can hold the key to dramatic advances in the battle to fight malignant and congenital diseases. On the other hand, genetic modifications, molecular engineering and bioproduction technologies have made it easier for terrorist states to acquire and turn into weapons biological discoveries meant to save lives.

Honourable senators, studies have identified a host of profoundly disturbing applications of biotechnology to the development of biowarfare agents. Consider the following. There exists genetically engineered micro-organisms capable of withstanding stress associated with storage and dissemination. There are strains with 100 per cent increased virulence, genetically engineered strains capable of resisting antibiotic treatments and stealth viruses.

Although ostensibly intended to endanger our lives, biological agents make unpredictable killers by inducing fear, terror, confusion and uncertainty. Anthrax-laced letters and space suit clad medics have become part of our daily lives. Our collective psyche has been profoundly wounded.

I had thought that anti-personnel land mines were close to the most insidious, destructive and indiscriminate war weapons ever developed by man. They are weapons that kill and maim lives indiscriminately to prevent poor populations from acquiring agricultural and economic self-sufficiency. Today, we all agree that biological weapons are one more of the most perverted and repugnant forms of human knowledge.

Honourable senators, it would be extremely naive, however, to assume that the horror of their indiscriminate nature would limit their use or to hope that the pain, suffering and death they can inflict on populations would awaken the conscience of men to standards of moral decency. It is indeed the horror and dread of these weapons that is particularly appealing to terrorists.

As we are witness to the perversity of man asserting himself through weapons of mass destruction, we must remain cognizant of the intimate relationship between health and security. Diseases do have a strategically decisive impact on the outcome of a conflict.

Honourable senators, historically, national security has focused on the use of military power to protect national borders. More recently, it has evolved to encompass economic prosperity, access to natural resources, and internal stability.

Today, this concept has gone even further. When we know that an Ebola virus can be only a flight away from our land, we realize that our population's health is a crucial factor for Canadian security.

The burning question remains: What can we do to better defend ourselves? A whole series of anti-terrorist measures are already in place. Other measures await Royal Assent. Nevertheless, we must understand that bioterrorism poses a very difficult challenge upon those responsible for our domestic security. The threat cannot be handled by law enforcement and intelligence organizations alone.

Management of bioterrorist counter measures involves the entire country. Accordingly, we must ensure that federal, provincial and local surveillance and counter measure systems are working effectively and productively. This includes land, sea and air protection and early warning systems. Where are the modern canaries of the mining era?

In a speech to the forty-seventh NATO Parliamentary Assembly, the Prime Minister stated and I quote:

...We are taking...on...a band of marauding extremists who seek to impose...a state of terror.

Their twisted calculus for success...rip at the very fibre of our societies...

For these reasons, honourable senators, I believe that our greatest challenge today is the ability to strike a balance between moral considerations and security necessities. The effectiveness of our defence will ultimately depend upon the degree of repugnance and exclusion we place on the use of biological weapons.

For the past 50 years the world has lived under the shadow of atomic weapons threatening a nuclear nightmare that would bring us back to the Stone Age. Today, we may have inadvertently unleashed a new threat to a peaceful night's sleep — that of a biological nightmare.

The danger is real and it may get worse. As our predecessors took a full stand against nuclear weapons, we must take an equally forceful position against biological weapons. A resolute moral stance and an informed approach will sustain our ability to develop and rigorously enforce fierce countermeasures against biowarfare.

This, honourable senators, will stand as one more proof of the indestructible fibre of our country. However, we must get on with the job.

On motion of Senator Bacon, debate adjourned.

[Translation]

BUSINESS OF THE SENATE

The Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, today is Wednesday, a day on which committees sit at 3:30 p.m. These committees hear from very important witnesses — they always are I might add — and I believe that there is agreement to stand all of the items on the Order Paper in their place until the next sitting of the Senate.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Thursday, November 22, 2001, at 1:30 p.m.

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Thursday, November 22, 2001

THE HONOURABLE DANS HAYS
SPEAKER



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THE SENATE

Thursday, November 22, 2001

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

INFLUENCE ON HATE CRIMES OF BILL TO REMOVE CERTAIN DOUBTS REGARDING THE MEANING OF MARRIAGE

Hon. Mobina S.B. Jaffer: Honourable senators, I was dumbfounded yesterday when this chamber debated a bill to deny marriage to homosexuals. The debate came at a time when Vancouverites still ache at the horror committed last Saturday. Tragically, Aaron Webster was violently beaten and killed. All Vancouverites were horrified by his murder. This hate crime was committed by young men. These young men had not been schooled in the Canadian value of tolerance.

A crowd of more than 1,500 people gathered on Sunday in shock and anger to call for change. The crowd was reminded by Inspector David Jones of the Vancouver police that Mr. Webster's murder was a hate crime. Inspector Jones also noted it was most probably not the first hate crime committed by Mr. Webster's murderers.

When honourable senators rise in this house to speak in favour of Bill S-9, I remind them that they are giving comfort to those who hate. They are telling more generations of young Canadians that we should not treat homosexuals equally: Homosexuals must not use the word "marriage" to describe their relationships. They are denied the use of this word and the recognition of love in relationships that it conveys to hundreds of thousands of Canadians. They are also teaching that intolerance of homosexuals is both proper and righteous.

Honourable senators, to use religion to justify intolerance is cowardly. It is an attempt to use faith to mask hatred.

The words of the Reverend Martin Niemöller in 1945 are well known to all honourable senators. He said:

First they came for Communists, and I didn't speak up — because I wasn't a communist. Then they came for the Jews, and I didn't speak up, because I wasn't a Jew. Then they came for the Catholics, and I didn't speak up, because I was a Protestant. Then they came for me, and by that time — there was no one left to speak for me.

Honourable senators, we have an obligation and a duty as members of the Senate of Canada to bring honour to this institution. Honour is brought by demonstrations of tolerance. I implore all honourable senators: We must continue to work together.

The Hon. the Speaker: Senator Jaffer, I am sorry, but your speaking time has expired.

WORLD TRADE ORGANIZATION DISCUSSIONS ON AGRICULTURE

Hon. Jim Tunney: Honourable senators, I have two brief messages for this chamber. Both refer to agriculture and to the future of agriculture in this country.

As honourable senators may know — I am sure you do — 142 members of the WTO are about to engage in new trade talks that will go on over the next few years and will wind up in the year 2005. The agreements made there will determine the future of agriculture in Canada, either in a prosperous way or in a very serious and deleterious way. We must at least find ourselves on an even playing field with the United States of America and those countries of the European Community that now are devastating our agricultural markets in grains and oilseeds with their very high government subsidies. We just hope that the outcome of those talks will be of benefit to us because our grain farmers are suffering in a way that they have never known before.

• (1340)

The other issue is more immediate, and it is the outcome of the appeal tribunal decision that will be made within the next few days. A challenge was brought by New Zealand and the United States against our method of marketing dairy products. If that appeal goes against us, it will seriously diminish the amount of milk that dairy farmers in Canada will be allowed to produce. We will see the decline in the number of processing plants in Canada. The diminished volume will result in substantial increases in the price of milk and other dairy products for consumers in Canada.

We have a serious trade issue with the United States. Neighbours of mine, who are in the gallery, produce horticultural products with greenhouses. Right now they are being challenged by the U.S. market and U.S. producers, even though we are supposed to have an agreement on free trade. Dianne and Alfons Casteels are struggling with this very matter today.

ROUTINE PROCEEDINGS

NUNAVUT WATERS AND NUNAVUT SURFACE RIGHTS TRIBUNAL BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-33, respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal, and to make consequential amendments to other acts.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, with leave, bill placed on the Orders of the Day for second reading later this day.

QUESTION PERIOD

THE SENATE

POSSIBILITY OF PRE-STUDY ON PUBLIC SAFETY BILL

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, the Minister of Justice is one of many who commended the Senate for its pre-study of Bill C-36. This week, before the House of Commons committee studying the bill, on more than one occasion, she thanked the Special Senate Committee on the Subject-Matter of Bill C-36 for its work. She was no doubt inspired to some extent by that report to propose a number of amendments, thereby putting a government sanction of approval on the concept of pre-study.

Honourable senators, I give that preamble in order to ask the Leader of the Government in the Senate whether the government would entertain pre-study of the Public Safety Bill, which was tabled today in the House of Commons. I think it is deserving of pre-study because, at first glance, it is a much more complex bill than Bill C-36. If the government is so inclined, it can be assured of the same opposition support and cooperation on this bill as it had during the pre-study on Bill C-36.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the Leader of the Opposition for his question.

Honourable senators, I think our pre-study report was done extremely well. It was an example of the Senate performing its function in a way that challenged the government to listen to the hearts and minds of the Canadian people, and in particular, to specialists in the various fields. I congratulate the chair of the committee, Senator Fairbairn, and the deputy chair, Senator

Kelleher, and all members who sat on that committee, as well as those members who substituted. There was very active participation in those committee hearings, not only by members but by individual senators who chose to attend on various days.

The Public Safety Bill, which was introduced this morning at 10:00 a.m. in the House of Commons, is indeed, as the Leader of the Opposition said, a very complex bill. It is not as time sensitive as the anti-terrorism bill, where we knew we were under certain time constraints. I will certainly take his suggestion under advisement, and I will discuss it thoroughly with my caucus at our next caucus meeting.

PUBLIC SAFETY BILL

POSSIBILITY OF PARCHMENT ERROR WITH REGARD TO REFERENCES ON HUMAN TRAFFICKING

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is directed to the Leader of the Government in the Senate. The minister just mentioned the Public Safety Bill. It was introduced in the other place with an explanatory note attached. On page 4 of that note from the government, it states, under the heading Penalties for Human Trafficking and Smuggling, that the current Immigration Act does not include an offence of human trafficking. In the bill that we will eventually see, at clause 93, they propose a provision to amend the Immigration Act on human trafficking.

As honourable senators know, we just passed Bill C-11, and gave it Royal Assent. Clause 117 of that bill deals with human trafficking. Is there a parchment error here? Does the left hand not know what the right hand is doing? Perhaps we could help with the pre-study by telling them that they do not have to worry about that section as we already passed it in Bill C-11.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, the Senate did very good work on Bill C-11, and it certainly is enhancing the roles of those who work in our immigration and citizenship activities in this nation.

•(1350)

With respect to the new bill that is before the House of Commons, it is, in fact, an elaboration, as I understand it, of the offences that are presently in Bill C-11. Perhaps that note is a little exaggeration of what, in fact, the one bill stands for and what the other bill did not. The honourable senator is quite correct. There are references in Bill C-11 to human trafficking.

Senator Kinsella: Honourable senators, would the minister not agree that had her colleague the Minister of Citizenship and Immigration attended the Special Senate Committee on the Subject Matter of Bill C-36, which she refused to do, as pointed out by Senator Kelleher yesterday, she would have learned that in her bill there is this provision? I do not know her record in cabinet, but if she did not advise cabinet when it was looking at the bill that was just introduced this morning, then perhaps it is time for that minister to find another position.

Senator Carstairs: Honourable senators, there are no immigration provisions in the anti-terrorism bill, Bill C-36, which hopefully this chamber will receive next week. Therefore, I see no reason for the Minister of Citizenship and Immigration to appear before that particular committee. However, with respect to the new public safety bill, where significant changes are being proposed to immigration, I would clearly expect the minister to be called and I would expect her to respond.

FOREIGN AFFAIRS

AID TO AFGHANISTAN

Hon. Douglas Roche: Honourable senators, my question is addressed to the Leader of the Government in the Senate.

There are confusing reports about whether aid supplies are actually getting through to the desperate people of Afghanistan. There have been questions such as: Are those supplies subject to control by local warlords? Canada has a great stake in this question because we have made a significant commitment to provide aid and assistance to the people of Afghanistan. Can the minister provide some updated information on the deliverability of this aid?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I thank the Honourable Senator Roche for his question. First, in watching the news last night, I was very proud when I saw some aid being delivered. When I looked closely at the television screen, it had big letters across it spelling out "Canada" in large red letters. It made me proud as a Canadian that some of our aid is clearly being delivered because my understanding is that this footage was only taken yesterday.

As to the lines of communication that will make all of that work possible now, the honourable senator is quite correct: they are not all up and running. Some resources are getting in, but not nearly enough. Part of the negotiations that went on yesterday in Washington, and, I understand, will continue in Bonn next week, will focus on how we can facilitate the lines of transport so that relief workers are guaranteed safety. Many of the people bringing aid supplies into the country are NGO workers. The focus for any troops sent by Canada will be to ensure that the roads and other lines of transport — airlines, if necessary — are kept open so that our aid and the aid from other nations can be delivered.

NATIONAL DEFENCE

AFGHANISTAN—DEPLOYMENT OF TROOPS TO PROTECT AID SHIPMENTS

Hon. Douglas Roche: Honourable senators, I thank the honourable senator for her answer. She touched on the issue of troops, which I should like to discuss now.

In order to ensure deliverability, is it the view of the government that those humanitarian supplies will need the

protection of armed forces? If so, has a decision been made as to whether Canadian Armed Forces will be deployed for this purpose?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, to answer the latter part of honourable senator's question first, no decision has yet been made. The decision that has been made is that their primary function, should they go, will be humanitarian. That is the number one function, although there will also be a security function. Security surveillance may be required to ensure deliverability and that those lines are kept open.

In terms of when those forces may be ready, as I indicated to the honourable senator, some discussions took place yesterday and more are anticipated next week. We are all hopeful that those decisions will be made sooner rather than later so that the innocent victims in Afghanistan, as they return to their communities, can also be assured of an adequate food supply via safe lines of transport.

Senator Roche: Honourable senators, I thank the minister for her response. I am trying to get clear in my head what is the position of the Government of Canada. Are we actively considering sending troops to guarantee aid, or are we waiting for an international decision to be made as to whether armed forces must be required on the ground, in which case Canada would then participate?

Senator Carstairs: We are actively considering it, but we are doing it in combination with discussions with our allies. As to the information I am able to provide to the honourable senator today, as he knows, the issue is very fluid at this time in Afghanistan. We want to ensure that the aid is provided. We know very well that the aid provided by NGOs is most often the one most acceptable to people because there appears never to be any strings attached. It is not only finding the right vehicle to ensure that aid is delivered, but also recognizing that winter is about to set in and that we have to move rather quickly on this matter.

THE ENVIRONMENT

KYOTO PROTOCOL—COMMENTS BY MINISTER OF INDUSTRY—COMMITMENT OF GOVERNMENT

Hon. Mira Spivak: Honourable senators, I should like some clarification, if possible, from the Leader of the Government in the Senate about enigmatic comments by Minister Brian Tobin regarding Canada's commitment to the Kyoto Agreement on Climate Change. In speaking to mining executives, Mr. Tobin stated that there is a strong consensus around the cabinet table and in caucus that Canada must do nothing in competitive terms that would handcuff our capacity to compete around the world and with the United States. He added that there are serious concerns about Kyoto, particularly with the U.S. refusing to participate.

There are two kinds of interpretations, I suppose, to these statements. It could be that the minister is leaving the impression that commitments to reduce greenhouse gases might undermine our long-term competitive position vis-à-vis our trading partners. Of course, he could be following the school of Michael Porter, of Harvard, who long ago said that reducing greenhouse gases is the way to be really competitive and to do nothing would be to damage the long-term health of our economy.

Could the minister find out for us what exactly it is that Minister Tobin meant, and whether his comments are at odds with those of Minister David Anderson? What is he really saying?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I am not exactly sure what the Honourable Brian Tobin is saying, but what I can be absolutely sure what the Government of Canada is saying. The Government of Canada is committed to addressing climate change and is committed to the Kyoto protocol ratification process. It is further committed to working with the provinces to effect programs that can achieve the target goals we will have set for ourselves.

Senator Spivak: Honourable senators, let me clarify this response. In other words, the government policy has not changed. Will we sign the Kyoto treaty in conjunction with other nations and not veer from that course?

Senator Carstairs: We are committed to the Kyoto protocol. As the honourable senator knows, there are ongoing negotiations. There have been no changes to the broad structure of the protocol, but there have been some minor humps along the way. The Government of Canada is clearly committed to its obligations under that protocol.

•(1400)

NATIONAL DEFENCE

AFGHANISTAN—SHIPS ASSIGNED TO MIDDLE EAST—ABILITY OF SEA KING HELICOPTERS TO DEFEND AGAINST MISSILES

Hon. Terry Stratton: Honourable senators, my question is directed to the Leader of the Government in the Senate. It is my understanding that the government has yet to dispatch a warship to replace the HMCS *Halifax* in fulfilment of our commitment to the Standing Naval Force Atlantic, one month after the fact. Are we currently in default of our NATO commitment stipulated in this government's own 1994 White Paper on Defence?

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, if I understand Senator Stratton's question correctly, it is with regard to the sixth ship and what its assignment would be. It was never determined what the assignment of the sixth ship would be because our agreement with our Allies did not include what exact ship and what category of ship would be required.

It is my understanding that the HMCS *Halifax* is still in the Persian Gulf. Therefore, it clearly has not been replaced. No decision has been made as to what ship, if any, will replace it.

Senator Stratton: Honourable senators, the coalition naval forces are currently searching for al-Qaeda leaders and contraband by boarding freighters and merchant ships leaving Pakistani ports and the Arabian Sea. These ships could be carrying al-Qaeda members armed with highly effective Stinger anti-aircraft missiles for the protection of those leaders.

Can the Leader of the Government in the Senate tell us whether our Sea Kings can protect themselves against potential attack by those Stingers?

Senator Carstairs: As honourable senators know, our defence establishment makes decisions as to what ships and aircraft, including helicopters, are sent. One of the fundamental criteria for the decision of what personnel and equipment to send is threat assessment. That is the overriding factor in determining how to equip our forces abroad.

That assessment was made. The Sea Kings were put on our ships because Canadian military planners have determined that the defence systems with which the Sea Kings are equipped are appropriate to the assessed threat.

Senator Stratton: Honourable senators, it is my understanding that our Sea Kings are without three of the four necessary missile defence suites that defend against missiles. Although I am not asking for an answer today, we need to know whether, if they do not have the proper defence mechanisms, they are at least out of harm's way.

Senator Carstairs: Honourable senators, I can answer that. The risk assessment was made. The defence establishment determined what equipment was required. That equipment is on board the aircraft and the ships that have been sent. The risk assessment test has been met.

[Translation]

INTERNATIONAL TRADE

UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT

Hon. Jean-Claude Rivest: Honourable senators, my question concerns the extremely difficult situation facing thousands of Canadian workers in the softwood lumber industry throughout Canada, as a result of the measures taken by the U.S. government.

In order to facilitate negotiations between Canada and the United States on this important issue, it appears that part of the solution involves the different forestry management schemes in the various parts of Canada.

Yesterday, in Quebec, the Minister for Natural Resources and Forestry indicated that the Government of Quebec was willing to change the Quebec forestry scheme quickly in order to help reach an agreement with the United States.

There are other forestry set-ups, in particular, the one in force in British Columbia, that are much more complicated than Quebec's. In its negotiations with the U.S. government, is the Canadian government going to allow certain regions of Canada, for instance Quebec, to sign an agreement with the United States as soon as possible, without waiting until the other regions are in a position to reach an agreement with the U.S.?

It would be very beneficial to be able to do this because, particularly in Quebec, there are entire towns that depend on this industry and this is obviously an emergency situation. Could the minister ask her colleague the Minister for International Trade to allow certain regions of Canada that are ready to sign an agreement with the American government to do so very soon, in order to maintain jobs which are absolutely vital to the regions of Quebec and Canada.

[English]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, there have been ongoing discussions between International Trade Minister Pettigrew and the Quebec Minister of Natural Resources, Mr. Brassard. Minister Brassard has been very cooperative and supportive. He assured Mr. Pettigrew that the Quebec government remains committed to the Canada-United States process for pursuing a long-term, durable solution. He and the representatives of all the other provincial governments involved have agreed to a two-week meeting schedule beginning November 26 in Toronto in order that a Canadian solution can be found to this impending economic problem for many Canadians who work in sawmills throughout this nation.

[Translation]

Senator Rivest: At present, there are different programs in place, and the Atlantic provinces are not affected. So there is one situation that is already resolved. If Quebec is prepared to sign an agreement, why not allow it? Obviously, it would have to be done within a Canadian vision and conception of agreements. I think that the Quebec minister stated quite clearly that he would respect the Canadian government's parameters and policies. The situation is urgent.

The situation in the Maritimes is already advantageous for workers. Quebec seems ready to solve its problem, so we should allow it to do so. Eventually, other regions in Canada will do likewise. I believe this is the message that the Quebec minister wanted to communicate to his federal counterpart.

[English]

Senator Carstairs: Honourable senators, there will never be an absolutely equal system in that timber rights are in the hands of private operators in Atlantic Canada whereas in British Columbia the land is mostly held by the Crown. It is absolutely essential that the provinces work together and with the federal

government in order to find a durable long-term solution for lumber operations in every region of this country.

JUSTICE

ANTI-TERRORISM—INCARCERATION OF PEOPLE FOR SECURITY REASONS—POSSIBILITY OF PERIODIC REPORTS ON NUMBER DETAINED

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is about persons being incarcerated in Canada for security reasons. This issue will be with us for some time, unfortunately.

●(1410)

Would it be possible to establish a system whereby the government or its representative in the Senate gives us periodic reports, so that we would not have to always ask the question as to how many persons are in custody for security reasons pursuant to given statutes? For example, today I could ask: Pursuant to the Immigration Act, how many persons are being held in custody for security reasons?

Perhaps the minister could answer that, and reflect upon the larger question of whether or not we in Parliament could learn from the minister rather than getting scattered information through the newspapers.

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, as the honourable senator realizes, some of that information is not accurate.

We must understand that a great many individuals are detained each and every year. My figures for last year indicate that, in the most recent fiscal year, which I assume ended in March of this year, 9,138 people were held for immigration reasons. Some were held for security reasons, some for health reasons, some for lacking the appropriate documents. The average period of detention was 16 days — and that, frankly, will certainly not diminish, because of the threats that are in existence throughout the world as a result of terrorism.

However, the honourable senator has made an interesting suggestion. I shall bring it forward to my cabinet colleagues.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I have the honour to table in this house three delayed answers to questions raised in the Senate: the question raised on October 24, 2001, by Senator Lynch-Staunton regarding drugs used to treat anthrax, and the question raised on October 25, 2001, by Senator Tkachuk also regarding drugs used to treat anthrax; and the question raised on November 7, 2001, by Senator Forrestall regarding Order in Council 1989-583.

HEALTH

APPROVAL OF CIPRO AS ANTI-ANTHRAX MEDICATION

(Response to questions raised by Hon. John Lynch-Staunton on October 24, 2001 and Hon. David Tkachuk on October 25, 2001)

At present, ciprofloxacin, doxycycline and penicillin are available on the Canadian market but not specifically approved for the treatment of Anthrax infection in humans.

Although ciprofloxacin, doxycycline and penicillin are not approved by Health Canada for the treatment of Anthrax infection, they are recommended as standard treatments for this infection by leading health authorities including the Centres for Disease Control in the United States, NATO, and the U.S. Army Medical Research Institute of Infectious Diseases.

The use of approved drug products for non-approved medical indications falls within the practice of medicine and is left to the discretion of treating physicians. This practice is common and is often referred to as "off-label use". The quality and appropriateness of medical practice are matters regulated at the provincial level by the various colleges of physicians and surgeons.

Under the current regulatory framework, it is the manufacturer's responsibility to seek marketing privileges for a drug for a given medical indication. Market authorization is sought through the submission of an application which supports the safety, efficacy and quality of drug products for the proposed indications. The decision to seek market authorization is most often based on a market opportunity identified by a manufacturer.

Given that the risk of anthrax infection is normally considered to be extraordinarily low, most manufacturers would not be interested in funding research into the safety and efficacy of drugs given that the expected return on that investment would be accordingly low.

Under the current regulatory framework, Health Canada reviews and considers data submitted by a manufacturer in support of a claim that a particular drug is safe and effective for a particular medical condition. In this way, Health Canada approval to market and advertise a drug is very specific to one or more medical conditions.

The Food and Drugs Act and Regulations prohibits manufacturers from knowingly selling or promoting drugs for "off-label" use.

PRIME MINISTER'S OFFICE

PROCLAMATION OF WAR ON TERRORISM

(Response to question raised by Hon. J. Michael Forrestall on November 7, 2001)

Order in Council P.C. 1989-583 placed all members of the CF Regular Force and Reserve Force on active service when outside of Canada. This Order in Council is still in effect today. Based on legal advice, it was decided to discontinue the practice of issuing operation specific Orders in Council because these would be redundant with the before-mentioned Order in Council.

[English]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before proceeding to Orders of the Day, I should like to draw your attention to the presence in the gallery of a delegation of senior government officials from the Republic of Hungary.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

[Translation]

PAGES EXCHANGE PROGRAM WITH
HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I should like to introduce another visiting page from the House of Commons. Geneviève Côté-Marleau, of Ottawa, is studying political science in the University of Ottawa's Faculty of Social Sciences.

On behalf of all honourable senators, I welcome you to the Senate. I trust that you will find your week with us interesting and informative.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, we would like to start with the first two items under "Government Business," and then move to second reading of Bill C-33.

[English]

CANADA-COSTA RICA FREE TRADE AGREEMENT
IMPLEMENTATION BILL

THIRD READING

Hon. Jack Austin moved the third reading of Bill C-32, to implement the Free Trade Agreement between the Government of Canada and the Government of the Republic of Costa Rica.

He said: Honourable senators, the Standing Senate Committee on Foreign Affairs last week reported Bill C-32 without amendment.

When the committee met on Tuesday, November 20, the only witnesses the committee heard from were Patrick O'Brien, who is the parliamentary secretary to the Minister for International Trade, and a departmental officer, Ms Heather Grant.

In my view, only two areas of discussion focused specifically on the bill itself. The first related to the issue of refined sugar imports. There is provision, as I mentioned at second reading, for imports of refined sugar from Costa Rica on a tariff-free basis after 10 years, to a limit of 40,000 metric tonnes, provided the raw sugar originates in Costa Rica and is refined there.

At the present time, there is no sugar refinery in Costa Rica. At most, the Costa Rican refined sugar could occupy 3 per cent of Canada's domestic market.

By letter dated November 21, which I received by fax that day, one day after the meeting of the Standing Senate Committee on Foreign Affairs, the Canadian Sugar Beet Producers' Association Inc., under the signature of Bruce Webster, general manager, advised that their concern was not with Bill C-32 but with issues generic to the world sugar system. In particular, their concern is:

Our main point for legislators respecting the Canada-Costa Rica Free Trade Agreement is that its features should not be replicated in future bilateral or regional pacts.

Of course, their focus is on the sugar issue.

Simply explained, they see other Central American countries with a major component of sugar growers and with a capacity to refine sugar. The impact of a similar agreement with such countries would be of real significance to the sugar beet industry and to the Canadian sugar refiners.

This leads to the second area of discussion in the Standing Senate Committee on Foreign Affairs. Senators in the committee were quite aware of this pending question. In reply to a question from Senator Bolduc, the parliamentary secretary noted that the committee report in the other place highlighted this concern. Mr. O'Brien went on to say:

The reality is that each of these bilateral agreements stands on its own. While there are many elements that are similar, it is not just a cookie-cutter template that would mean that any future agreement would be entered into on that basis. We certainly understand the concern and it is shared on both sides of the House.

In response to a further question from Senator Graham regarding negotiations with other Central American countries, Mr. O'Brien stated:

There is certainly an anticipation of negotiations with the other countries of Central America. At this time, there are not any underway...

...but we expect that very soon there will be a new set of talks.

As it happens, the *Globe and Mail*, on Thursday, November 22, 2001 — today — reports that Canada will open free trade talks with El Salvador, Guatemala, Honduras and Nicaragua in December. I hope I am not being overly sensitive in remarking that this announcement should have awaited final disposition by the Senate of Bill C-32 and Royal Assent.

In any event, I believe the Senate owes a special duty to the sugar beet industry and the sugar refiners to consider most closely the impact on them of any free trade agreement with those countries.

Honourable senators, Canada is a free trader, and that is not a matter of political partisanship. When it comes to the terms of a free trade deal, we have had and may yet have partisan differences to resolve. However, in strategic terms, we will seek free trade on an international basis, such as the WTO and the Doha round. We seek free trade regionally, such as NAFTA and, perhaps in the future, the FTAA. We seek free trade bilaterally, as in the case of the proposed Canada-Costa Rica Free Trade Agreement before us today.

I trust Bill C-32 will have the support of all honourable senators.

[Translation]

Hon. Roch Bolduc: Honourable senators, I simply wish to point out that we are not opposed to the bill. We mentioned this at second reading. In committee, we pointed out that we have supported free trade for many years. That is clear.

•(1420)

As a representative of the Province of Quebec, I raised a question as to the repercussions this agreement might have on the sugar refineries. I cautioned the Parliamentary Secretary about future agreements with other Central American countries, because there could be problems, particularly with Guatemala. That reservation expressed, I have no objection to this bill.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

[English]

AIR CANADA PUBLIC PARTICIPATION ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Sheila Finestone moved the second reading of Bill C-38, to amend the Air Canada Public Participation Act.

She said: Honourable senators, I am pleased to rise and speak to Bill C-38, which is being given second reading today.

As honourable senators know, Bill C-38 was first introduced at the end of October in the other place and had a rapid but thorough review there. I understand that there are similar plans for our standing committee, and in advance I wish to thank the committee members who will deal with the bill in detail over the next few days.

The purpose of Bill C-38 is to amend the Air Canada Public Participation Act to eliminate the 15 per cent limit on the holding of voting shares in Air Canada. The bill does not try to resolve any of the other longer-term issues relating to Air Canada.

The proposed legislative changes are intended to provide our national air carrier with one of the key tools it needs as it attempts to regain its financial health that has been severely strained by a number of events over this past year.

Even before September 11, it had become quite apparent that Air Canada would have to make some significant moves to address its weakened financial situation. The carrier's efforts to integrate Canadian Airlines, high fuel prices, declining passenger demand and the severe slowdown in the economy have all had a significant impact on Air Canada.

Taken together, these measures were designed to ensure that individual shareholders could not act in concert to take control of the airline and as a result nullify the concept of a widely held company.

[Translation]

Air Canada has stated publicly that it needs new equity and it has taken, and continues to take, measures to acquire a considerable number of non-voting shares.

However, for those investors who want to have some say in the direction of the company, there has been a legislated limit on voting shares and a companion prohibition on association between the holders of those same voting shares.

These measures were designed to ensure that individual shareholders could not act in concert to take control of the airline and thereby nullify the concept of a widely held company.

A 10 per cent restriction was in place until last year, when Bill C-26, the airline restructuring legislation, came into force on July 5, 2000. Bill C-26 had in it a section that amended the Air Canada Public Participation Act by raising the individual limit on the holding of voting shares to 15 per cent. The prohibition on association was not changed.

[English]

Honourable senators will recall that in the leadup to Bill C-26 in the fall of 1999, both the House of Commons and the Standing Senate Committee on Transport and Communications held extensive hearings to assess the views and concerns of the airline

industry in Canada. In their separate reports, both committees recommended that the limit on individual voting share ownership in Air Canada be raised to 20 per cent. Several members thought that figure should be raised higher than that.

Notwithstanding that, the government agreed that the limit should be raised as a means of encouraging investment in Air Canada, while still preventing a single shareholder from gaining effective control. The government's view at that time was that 15 per cent was the appropriate threshold, and it is this new limit that was entrenched in law.

In deciding to remove the limit, the government has come to believe that any limit can act as a disincentive to an investor with serious intentions of having a say in the management of Air Canada.

The events of September 11, 2001, have had unprecedented consequences for airlines around the world. Passenger traffic has declined more than in any other previous recession. Significant short- and long-term financial difficulties are forecast for the entire industry. Regrettably, Canada 3000, the country's second largest airline, has already declared bankruptcy.

Air Canada has been forced by the effects of the terrorist attacks in the United States to re-examine its entire operation even more profoundly than had been previously announced. Services have been adjusted in response to reduced demand and costs have been cut wherever possible. Extremely difficult decisions have had to be made by Air Canada's management, including notice of layoffs to close to 9,000 employees.

To reduce the layoff impact, the company has been working with HRDC to ensure that its employees can benefit from any existing federal programs, including work-sharing. The carrier has also eliminated some routes from its network and has scaled back on the number and size of aircraft used on other routes.

[Translation]

Air Canada has benefited, along with every other Canadian air carrier, from the government initiatives that were instituted to help the industry cope with the severe economic fallout from the events of September 11.

The government provided an indemnity for third party war and terrorism liabilities for essential aviation service operators in Canada. It took this action, as did other governments around the world, to ensure our carriers would be able to keep operating.

In recognition of financial consequences of the closure of Canada's airspace, the government implemented a \$160-million program to compensate the more than 1,300 businesses providing air transportation for passengers and cargo, and offering specialty air services.

A great many Canadian carriers have already filed their claims under the compensation package and a number of carriers have already received their initial payments, including Air Canada.

[English]

Honourable senators, Ronald Reagan National Airport's unique geographic location has resulted in authorities in the United States imposing more stringent security requirements there than at other American airports. In order to re-establish Air Canada's important flying rights into that airport from Toronto and Montreal, the government has authorized the presence of armed RCMP officers on Air Canada flights to the U.S. capital. It has also made the necessary provisions to allow armed U.S. air marshals on U.S. flights to enter Canada without difficulty.

•(1430)

The decision to amend the Air Canada Public Participation Act at this time is designed to provide additional assistance to Air Canada in its attempts to return to financial stability.

Let me assure honourable senators that the board of directors of Air Canada supports this change. The matter was discussed with the chair, and Air Canada has stated publicly that it supports the government's decision. The government is confident that this measure offers the private sector greater opportunities for investing in Air Canada and can contribute to the successful restructuring of the company. It should attract new capital for the airline. It is also important to note that there have been no objections voiced publicly on the elimination of the 15 per cent limit.

With the enactment of this bill, Air Canada will find itself on the same footing as the rest of the air industry with respect to individual share ownership. There will be no limit except for the 25 per cent limit on voting shares held by non-residents, which is a different issue.

On this point, I must emphasize that Bill C-38 will not in any way result in a change in the government's position on foreign ownership. The government remains committed to ensuring that Canada's airline industry is run in Canada, for Canadians, by Canadians. Consequently, the government's long-standing policy of a 25 per cent limit on foreign ownership of voting shares, which applies to all carriers, and not just Air Canada, shall remain unchanged.

This is a bill, therefore, with only three clauses. The first removes the 15 per cent limit and the prohibition on association; the second renders null and void any other corporate documents that addressed the 15 per cent limit; and the third deals with when the changes will come into force.

The legislative changes that will be enacted as a result of this bill should serve the interests of Air Canada and airline passengers who will benefit from a stronger, more effective and efficient national carrier, which I am sure all honourable senators in this chamber, all parliamentarians and most Canadians will be thrilled to note. I am pleased to introduce this bill and hope we can give it swift passage. The sooner this bill can be enacted, the better.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I should like to ask a question of the Honourable Senator Finestone. I hope I misunderstood the honourable senator. Under Bill C-36, there is a pertinent provision that the Firearms Act would be suspended to allow U.S. sky marshals to come to Canada armed. I understood her to say that this provision was already in effect. Is that correct?

Senator Finestone: Honourable senators, did I say "already in effect"? I think I said it will come into effect.

Senator Lynch-Staunton: That is what I wish to have the honourable senator reassure us about.

Senator Finestone: I remember discussing it. I remember looking at it. I believe that this bill will put into effect what we have already said we will do. Is that not a good thing?

Senator Lynch-Staunton: I will check Hansard tomorrow. I understood the honourable senator to say that the provision to allow armed sky marshals in the United States or elsewhere was already in effect. I just hope I misunderstood the honourable senator.

Senator Finestone: That would be a good question for the honourable senator to raise tomorrow in committee.

Hon. Lowell Murray: Honourable senators, will Senator Finestone tell us whether this is the sum total of the government's policy in terms of restoring or creating a competitive air industry in Canada?

Senator Finestone: I do not believe so. I think I stated at the outset that this is one of the major steps that will be required to ensure or to rebuild the health of that company. I can think of other steps that are not in this bill, as can Senator Murray.

Senator Murray: Do any of them have to do with Mr. Milton?

On motion of Senator Tkachuk, debate adjourned.

NUNAVUT WATERS AND NUNAVUT SURFACE RIGHTS TRIBUNAL BILL

SECOND READING—DEBATE ADJOURNED

Hon. Willie Adams moved the second reading of Bill C-33, respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal, and to make consequential amendments to other acts.

He said: Honourable senators, I rise today to speak to Bill C-33. The Nunavut Land Claims Agreement came into effect on July 9, 1993. I think all honourable senators will remember that Prime Minister Brian Mulroney went to Iqaluit to come to an agreement on a land claims settlement in 1993. At that time, we had a big celebration in Nunavut. After 1999, we developed a Nunavut government.

Honourable senators, I wish to speak in my native language, Inuktitut. Senator Watt will be my interpreter.

[Editor's Note: The honourable senator continued in Inuktitut — Translation follows]

Honourable senators, many years of negotiations were spent in developing these claims, and it was something Inuit felt they needed to provide for future generations. The land claims allow them to become a full and equal partner in the Canadian federation. Inuit now control more than 350,000 square kilometres.

• (1440)

Bill C-33 has been in development since 1996. Since then, efforts have been made to listen to and accommodate the concerns of the Inuit and other stakeholders. Meetings have been held between DIAND and Nunavut Tunngavik Incorporated. NTL, Nunavik Tunngavik Incorporated, has also been representing Inuit over the past 20 years in their negotiations with the federal government on their land claims agreements. The Makivik Corporation, which represents the Inuit of James Bay and Northern Quebec, has also been consulted on this legislation.

The Nunavut Water Board has been in existence and carrying out duties since July 1995, and the Nunavut Surface Rights Tribunal since 1996. Bill C-33 will resolve present legal issues. It will meet outstanding commitments under the Nunavut Land Claims Agreement and provide for economic development in Nunavut.

Bill C-33 describes the powers of these two institutions and also sets out the overall resource management guidelines set out in the land claim agreement. The board will ensure that Inuit culture, customs and knowledge will be maintained.

This proposed act is divided into two parts. Part 1 establishes the Nunavut Water Board and recognizes special rights for Inuit concerning water flowing through Nunavut. Environmental concerns and compensation for the loss and damages will be taken into consideration when a water licence is applied for.

According to the terms listed in the Nunavut Land Claims Agreement, the board will consist of eight members. Four will be Inuit nominated by Nunavut Tunngavik Incorporated, two will be nominated by the Government of Nunavut, and two members will be nominated by the federal government. The language to be spoken at the board meetings is Inuktitut.

Part 2 of the bill will establish the Nunavut Surface Rights Tribunal. The tribunal will settle disputes between Inuit and persons who wish to access Inuit-owned land and persons holding surface rights who wish to access those Crown lands. The board will resolve disputes concerning the loss to the Inuit from damage to the environment and wildlife harvesting by development activities in Nunavut settlement areas.

Honourable senators, after five years of studying this bill and meeting with the concerned organizations, I feel it is time to move this legislation forward.

Hon. Senators: Hear, hear!

Hon. Sheila Finestone: Honourable senators, I am sure you all share my extreme joy and pleasure at listening to Senator Adams' and Senator Watt's exchange in Inuktitut. I felt an enormous sense of pride, privilege and a true expression of what Canada is all about — this post modern nation of the 21st century, the most diverse and pluralistic nation in the world. I thank you for the privilege of being able to listen.

On motion of Senator Kinsella, for Senator Johnson, debate adjourned.

YOUTH CRIMINAL JUSTICE BILL

REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Milne, seconded by the Honourable Senator Rompkey, P.C., for the adoption of the tenth report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill C-7, in respect of criminal justice for young persons and to amend and repeal other Acts, with amendments) presented in the Senate on November 8, 2001.

Hon. Landon Pearson: Honourable senators, this debate was stood in the name of Senator Cools, but she has yielded.

As sponsor of Bill C-7, I should like to speak today to the tenth report of the Standing Senate Committee on Legal and Constitutional Affairs.

I wish to express my concerns about the amendments contained in it, particularly those amendments on which I either abstained when I did not fully understand or opposed during the voting process. Having now studied the amendments thoroughly, I believe they are either redundant or in some cases actually harmful to the best interests of the young people whose actions have brought them into conflict with the law. As a result, I will be voting against accepting the report.

Before I discuss the amendments in more detail, I should like to focus for a few minutes on the context of the bill itself. The phenomenon of young people in trouble with the law is a complex one, generated as it is by a combination of troubled, often chaotic living circumstances and tendencies common among most adolescents towards risk-taking and experimentation and among some towards defiance and increased aggression. Responding in an appropriate manner to the difficulties of this life stage is very challenging, yet it can and must be done.

● (1450)

Almost every young person I have known has pushed beyond the limits of the law at one time or another. Some do so often enough in such visible circumstances that they get caught. A smaller number, alas, do act out of malice and must be held accountable, and we have to recognize that a handful become so violent that they commit very serious crimes and constitute a real danger both to society and to themselves. Yet, at least until they turn 18 years of age, I am convinced that all young people are open to change; they are far more open than most adults, who tend to become rather rapidly fixed in their patterns of behaviour. This is why a youth criminal justice system, separate and apart as much as possible from the adult system, is so important for their future as well as for ours.

To some extent the existing law, the Young Offenders Act, was crafted in recognition of the opportunities for behavioural change that the fluidity of adolescence provides. Certain provinces, notably Quebec, took the YOA and the opening it provided for alternative measures and experienced a relative success. Others did not, however, and we have ended up overall with the largest rate of youth incarceration in the Western World.

Honourable senators, it seems to me that that rate of youth incarceration speaks to a certain ambiguity in the YOA that has led provinces to widely varying practices. To some extent, this ambiguity lies in the stated purposes of the YOA. It is also to be found in the funding that accompanied implementation — funding that was used in certain jurisdictions more for the construction of custodial facilities than for alternative measures. This ambiguity has also allowed for the growth of a certain amount of public mistrust of the YOA. This mistrust, however ill-founded, is a social reality and it has to be taken into account.

As legislators, all honourable senators in this chamber know that the law is a human creation, since we spend so much of our time engaged in the process. Just as no person should be above or beyond the law, so no law should be too far removed from the people in whose interests it is designed. Otherwise it will not be either as effective or as respected as it should.

During the seven years I have been in the Senate, I have assisted laws to change and evolve in response to social change. Therefore, I never hold out for a perfect law. However, in this case I do hold out for the best response to these times and these circumstances. I am convinced that the YOA is no longer adequate, although it is far ahead of the Juvenile Delinquent Act that it replaced. I am also convinced that the new Youth Criminal Justice Act, with its emphasis on the rehabilitation and reintegration of youth; on fair and proportionate accountability that is consistent with the greater dependency of young persons and the reduced level of maturity, on enhanced procedural protections of youth to ensure that they are treated fairly and their rights are protected; on ensuring timely interventions — especially important given young persons' perceptions of time —

and on reducing the number of young people needlessly brought into the justice system and into custody is much more appropriate for today.

Honourable senators, I am happy to say that most of the witnesses who appeared before our committee agreed with these objectives. There was also clear support at committee for another of the bill's main objectives: less use of the formal justice system and more diversion and other extra-judicial measures for the vast majority of youth crime.

Experience in Canada and other countries has shown that measures outside the court process can prove effective and timely in responding to less serious youth crime. Even though the YOA permits the use of alternative measures, over 15 years of experience makes it clear that it does not provide enough legislative direction regarding their use.

The proposed Youth Criminal Justice Act is intended to enable the courts to focus on serious youth crime by increasing the use of effective and timely non-court responses to less serious offences. These extra-judicial measures provide meaningful consequences, such as requiring the young person to repair the harm to the victim. They also enable early intervention with young people, as well as the opportunity for the broader community to play an important role in developing community-based responses to youth crime. One of our witnesses, Judge Peter Harris, even told us that the new law, once implemented, would cut his caseload in half and enable him to concentrate on finding the most appropriate judicial response to the young people before him who had committed the most serious crimes.

Most witnesses before the committee also strongly supported reducing our overall use of custody in this country. Young persons in Canada often receive harsher custodial sentences than do adults for the same type of offence. It was disturbing for many honourable senators to discover that almost 80 per cent of custodial sentences now are for non-violent offences.

In contrast to the YOA, the new legislation provides that custody is to be reserved primarily for violent offenders and serious repeat offenders. The YCJA recognizes that non-custodial sentences can also provide more meaningful consequences and be more effective in rehabilitating young persons than custodial ones.

The bill also contains measures for the rehabilitation and reintegration of those who do go into custody. A weakness of the YOA is that a young person can be released from custody with no required supervision and support. Bill C-7 requires that every period in custody be followed by a period of supervision and support in the community as part of the sentence. The emphasis in the bill on assisting a young person to make a successful transition back to the community is based on the belief that virtually all youth can reintegrate if they receive the proper support, assistance and opportunities.

Taken as a whole, the proposed YCJA will ensure a fairer and more effective system while reducing the numbers of youth going into the formal justice system, reducing overreliance on incarceration in this country and, for those who do go into custody, increasing reintegration measures for a successful transition and return to the community.

Honourable senators, I will now turn to some of the amendments. I will not address all of the amendments as others will speak to them, but I will focus on those to which my own experience is particularly relevant.

First, I would like to address the UN Convention on the Rights of the Child. I have been involved with this document since its inception under the leadership of Poland in 1979. Canada was a member of the international working group that drafted the convention and took an active part in its development. At that time, I participated as a stakeholder of a concerned non-governmental community. From the time it was adopted until I came to the Senate, I chaired the Canadian Coalition on the Rights of Children that promoted Canada's ratification of the convention in 1991. I worked with many aspects of the convention, including the section on youth justice. I truly believe this new bill is in full compliance, and in many instances exceeds the minimum of the protections called for. It certainly strengthens rights and protections available under the current YOA.

The reference to the UN Convention on the Rights of the Child found in the preamble to Bill C-7 is a clear indication that Canada is in compliance and therefore the suggested amendment to clause 2, in my view, is not needed. On the contrary, I am afraid that it would only serve to add confusion and conflict in interpreting the bill.

The declaration of principles in clause 3 of the bill sets out the principles that apply in the act. They are in compliance with the convention but, most important, many of them articulate the convention's provisions in language that reflects Canadian jurisprudence. This is important because the language of the UN convention represents a compromise to allow acceptance by a wide range of different systems and is not precise or clear enough for an advanced system of youth justice protection such as Canada's. The interpretation provision in clause 3(2) provides that the act shall be liberally construed to ensure that young persons are dealt with in accordance with the declaration of principles. Inserting the suggested amendment would, I contend, only serve to increase confusion and conflict and it would add unnecessary complexity. Therefore, I would urge honourable senators not to accept the amendment.

A further amendment, also related to the convention, concerns what happens to a youth who receives an adult sentence. It is important to note that when a youth receives an adult sentence, the youth is not directed to serve the sentence in adult custody. Clause 76 of the bill provides that a young person under 18 with an adult sentence should serve the sentence in youth facilities. It should also be noted, by the way, that the bill is clear that a

young person, anyone under 18, serving a youth sentence would never serve it with adults. They must be kept separate and apart. However, if a judge is convinced that it would be in the best interests of the young person, or if keeping the young person in youth custody would jeopardize the safety of others, including others in youth custody, only then can a youth with an adult sentence be placed in adult facilities.

There are exceptional circumstances that must be taken into account for youth with adult sentences who may be an unmanageable security risk to other youths in the youth facility. The rights and safety of other young people must be taken into consideration, as well as the best interests of the youth with the adult sentence. I know of at least one case in Ontario where one young person in a youth facility killed another because the guards failed to exercise caution. These provisions must be looked at, along with the range of other measures in the bill that limit the overall use of custody for youth and eliminate transfer to adult court.

•(1500)

It is of the utmost importance that the transfer system be fair and that the youth justice court take into account the individual circumstances of each case, including the age and maturity of the youth and the seriousness of the offence.

A suggested amendment would change clause 76 by requiring that when a youth with an adult sentence is placed in adult facilities the youth would be kept in a youth custody section of the adult facility, separate and apart from any adult who is detained or held in custody.

There are several grave concerns with this approach, most notably its devastating effect on youth. The suggested amendment would allow young persons with adult sentences to be placed in adult facilities but would require that the youth serve the sentence separate and apart from adults. The very small number of youth in adult facilities, on average six, spread across the country per year, including both males and females, would mean that these youth would be forced to serve their sentence in isolation, in effect, warehoused in solitary confinement, as they would not be able to attend programs or otherwise associate with adults. This would not be in the best interests of young people.

The suggested amendment creates a major problem in another area. It eliminates the authority to place an offender with an adult sentence who reaches adulthood, or is an adult at the time of sentencing, in anything but custody with other youth. The suggested amendment provides only for placement in the youth custody section of an adult facility, separate and apart from adults, and removes the ability to place an older person in adult custody. There are many instances when a young person with an adult sentence turns 20 or older, or where a young offender receives an adult sentence but was only charged many years after committing a serious offence as a youth, and should be placed in adult custody. With this amendment, that would no longer be possible.

Another set of amendments I would like to discuss are the ones related to the age for presumptive offences. In the YOA, section 16 allows for a Crown application pre-trial to move a young person aged 14 or over to adult court. The number of those under 16 who are transferred to adult court is small. Over the last four years, Quebec has transferred but eight, and Ontario but nine. However, the fact remains that they are transferred pre-trial and they are transferred to an adult court.

Under the new law, there will be no transfer to adult court and adult sentences for the worst offences will only be given after conviction. Furthermore — and this is why I am not against leaving the age at 14 for presumptive offences — the trial judge has considerable discretion in sentencing and, indeed, a new alternative for the most violent young offenders. This alternative is known as the intensive rehabilitative custody and supervision order. Instead of ordering an adult sentence, the youth justice court can make this order if the young person has been found guilty of one of the most serious offences, the young person is suffering from a mental or psychological disorder or an emotional disturbance, an individualized treatment plan has been developed for the young person and an appropriate program is available for which the young person is suitable for admission.

The Department of Justice has set aside special funding for the provinces and territories to ensure that this sentencing option can be made available throughout the country. It provides an opportunity to bring all possible therapeutic resources together to assist the young offender to avoid serious reoffending in the future.

For the very small group of young people who are very violent, being able to work with them from the age of 14 offers a much better chance at rehabilitation than working with them at 16, when it may already be too late.

Another suggested amendment deals with recovery of costs of legal counsel. As you are aware, the bill guarantees a young person the right to retain and instruct counsel without delay, to exercise that right personally at any stage of the proceedings, to be told of their right to counsel and to have counsel provided. The bill also provides, in clause 25(10), that nothing prevents a province from establishing a program to recover the costs of a young person's counsel from the young person or parents, and that the costs can only be recovered after the proceedings are completed.

A small number of provinces are currently recovering costs from those who have the ability to pay, as part of the administration of justice. A recent Ontario Court of Appeal decision upheld this practice and stated that costs could be recovered at any stage of the proceedings. While clause 25(10) is not strictly necessary, and while I know that the mover of this amendment did so with excellent intentions, on closer examination we see that it contains a degree of protection for the young person that does not currently exist.

The Hon the Speaker *pro tempore*: Honourable senators, I am sorry to inform the Honourable Senator Pearson that her allotted time has expired.

Senator Pearson: May I have leave to continue?

The Hon the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

[Translation]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I consent to Senator Pearson being given leave to finish her speech, as she has requested, so that we do not embark on an interminable question period.

[English]

Hon. Anne C. Cools: Since some senators can make suggestions about the length of extension of time, I should also like to make a suggestion. I suggest that since Senator Pearson is the sponsor of the bill, we give her an extension of one-half hour.

Senator Pearson: I do not need half an hour.

Senator Cools: The question must be settled. There are two suggestions before the chamber.

Senator Pearson: Honourable senators, the recovery of the cost of counsel from the parent or young person can take place only after the proceedings are completed. This ensures that the young person will have counsel throughout the proceedings without consideration of ability to pay. Deletion of this subclause would remove this protection and therefore I cannot support it.

I could make similar arguments with respect to the other proposed amendments, but time does not permit. I would, however, like to make a quick reference to the amendment related to Aboriginal youth. All members of the committee are very conscious that Aboriginal youth are greatly overrepresented in the system. This is a very serious situation that must be addressed. However, I am convinced that the framework of the bill, without amendment, is adequate to allow good things to happen. The most important thing is that the resources designated for them be allowed to flow.

Honourable senators, I undertook to sponsor Bill C-7 because I was convinced that the youth criminal justice system it creates would mark a substantial improvement over the YOA system for both young people and society. Having studied it in the company of over 60 witnesses in committee, I remain convinced that it is more respectful of the rights of young people to due process when they come into conflict with the law, more respectful of the nature of adolescents, and more respectful of the capacity of young people to take responsibility for their actions than is the YOA. I also believe it is more respectful of society by ensuring that the most violent young offenders will not only be held accountable but will be offered more opportunities to change before they re-enter society, as they inevitably will. Nothing any of the witnesses said has persuaded me otherwise.

Of course the bill is not perfect, nor will it solve all the problems related to youth justice. There will never be enough money, programs or human resources to address the difficult circumstances that make some young people rebellious and vulnerable, or to help them find their way to responsibility and maturity.

During the implementation stage, certain flaws in the proposed legislation may very well appear, and we may find ourselves required to amend the new act, just as we did the YOA shortly after I came to the Senate. However, the bill I want to implement is Bill C-7 as it stands, without the amendments recommended by the committee. The reason for that, as I said earlier, is that I believe these amendments to be either unnecessary, inconsistent with, or indeed harmful to the purposes of the bill and to the best interests of young people.

As a result, I will vote against the committee's report and I urge all senators to do the same. We will then be able to vote for a youth criminal justice system that will prevent crime by addressing the circumstances underlying a young person's offending behaviour, rehabilitate young persons who commit offences and reintegrate them into society, and ensure that a young person is subject to meaningful consequences for his or her offence, in order to promote the long-term protection of the public.

Senator Cools: Honourable senators, would the Honourable Senator Pearson take a question?

The Hon the Speaker *pro tempore*: Honourable Senator Cools, a short time ago the chamber gave permission for Senator Pearson to finish her speech, without questions.

Senator Cools: I understand that Senator Pearson rose and asked for leave, and that it was granted. That is the agreement the chamber made.

•(1510)

As to the amount of time that Senator Pearson was actually given, the chamber did not address its mind to that question at all. That was an announcement made by one senator, but the chamber did not make any judgment on that particular issue.

[Translation]

Senator Robichaud: Honourable senators, with respect to consent, on several occasions recently, we have agreed to stay within the time limits set out in the rules, in order that all senators may have a chance to speak.

However, we have consented to allowing a certain amount of additional time in order to permit a senator to finish her speech and avoid cutting her off before she had reached the end. This is purely in order to let everyone say what they have to say and ensure that we do not become involved in an endless question period, as has happened in the past.

[English]

Senator Cools: The problem is that I remain on the horns of a dilemma, which is that we have rule 99, and I believe rule 97, and a related set of practices around this place essentially upholding the right of the Senate to hear from the important players on a committee. Rule 99, as we said before, indicates that the senator presenting the report shall explain to the Senate the basis and the effect of each amendment. The chairman of the committee has declined to do that.

[Translation]

Senator Robichaud: Honourable senators, I believe that the committee chair acquitted herself properly of her mandate and responsibilities when she presented the report and no one can say otherwise.

The Hon. the Speaker *pro tempore*: Honourable senators, when I sought the leave of this chamber, I made it very clear that the purpose was to give Senator Pearson the chance to finish her speech. It is up to the chamber to decide whether to give her more time.

[English]

Senator Cools: It is my understanding that, right now, we are past the question of leave. I understand that we are now on a point of order. I believe that Senator Robichaud just raised a point of order. Did I not hear him say, "point of order"?

Senator Robichaud: Yes.

Senator Corbin: He clarified the record.

Senator Cools: Maybe Senator Robichaud wants to withdraw his point of order. Are we not now on a point of order? I was under the impression that Senator Robichaud raised a point of order on the question of the committee chairs responding to the Senate in respect of a committee report.

It is a long-standing principle of any chamber that the chamber has the right to hear from the important players on a committee about a report of the committee.

This is simply not acceptable.

The Hon the Speaker *pro tempore*: I heard Senator Robichaud say "point of order." I did not hear him ask for a ruling.

Let us make it simple. Senator Cools wishes to ask questions of Senator Pearson. I will ask Senator Pearson whether she is ready to answer questions.

Senator Pearson: My answer is yes.

Senator Lynch-Staunton: It must be Thursday. It is like there is a full moon.

[Translation]

Senator Robichaud: Honourable senators, we keep coming back to this discussion. I maintain that if we decide to no longer allow this practice, which was an attempt to facilitate the debate, leave will simply no longer be given because it could lead to interminable debates or question periods.

The Hon. the Speaker *pro tempore*: Honourable senators, when you gave leave just now, it was to allow Senator Pearson to complete her speech.

[English]

Is leave granted for Senator Pearson to answer questions?

It is your decision, honourable senators. Is leave granted?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon the Speaker *pro tempore*: Leave is not granted.

Hon. Charlie Watt: Honourable senators, I move the adjournment of the debate on Bill C-7.

Senator Cools: Which debate is the honourable senator speaking about? We are on a point of order.

The Hon the Speaker *pro tempore*: Did the Honourable Senator Cools ask for a point of order?

Senator Cools: No, but Senator Robichaud had raised a point of order. That is what was before the chamber when Her Honour came forward and put a question about whether leave would be granted to Senator Pearson again. The question before the chamber at the time was a point of order.

On motion of Senator Watt, debate adjourned.

[Translation]

ANTI-TERRORISM BILL

REPORT OF SPECIAL COMMITTEE ON SUBJECT MATTER OF BILL C-36—ADOPTED

On the Order:

Resuming debate on the study of the first report of the Special Senate Committee on the Subject-Matter of Bill C-36, an Act to amend the Criminal Code, the Official Secrets Act, the Canada Evidence Act, the Proceeds of Crime (Money Laundering) Act and other Acts, and to enact measures respecting the registration of charities, in order to combat terrorism, tabled in the Senate on November 1, 2001.

Hon. Gérald-A. Beaudoin: Honourable senators, on October 15, 2001, the Government of Canada tabled a bill to

fight against terrorism. This is an omnibus bill and it contains a number of measures that are unprecedented in Canadian law.

Bill C-36 deserves meticulous study; we began this review when the bill went for pre-study, and the report tabled on November 1 by Senator Fairbairn is the product of our initial reflections. I agree with this report.

On Tuesday, the Minister of Justice appeared before the Justice and Human Rights Committee of the other House. A number of amendments were proposed. My remarks today relate solely to the report of the Special Committee on Bill C-36 chaired by Senator Fairbairn, which is before us for consideration today. We will study Bill C-36 as amended in due course.

I support the idea that the legislation should undergo very careful scrutiny by a Senate committee within three years of its coming into effect and, as part of this careful parliamentary scrutiny, that the Minister of Justice should table an annual report on the measures taken pursuant to Bill C-36.

I also subscribe to the idea of a sunset clause — or a self-repealing provision — for Bill C-36 as a whole after a five-year period, excluding the provisions concerning the implementation of international conventions.

Regarding oversight and review, the appointment of a senior official seems an entirely pertinent and appropriate amendment.

•(1520)

I also support the amendments proposed by the special committee regarding the registration of terrorists, preventive detention, the certificates of the Attorney General prohibiting the disclosure of information, those persons who are required to keep secrets in perpetuity, charitable organizations, and regulatory powers. I also support the definitions of "terrorist activity" and "security," the defence in the interest of the public under the Privacy Act, the issue of "facilitating" and the list of terrorists, the offence of mischief, and the use of the term "terrorism."

Before concluding, I should like to say a few words on the topic of the interception of private communications.

Clause 62 of Bill C-36 sets out new measures that would allow the Minister of Defence to authorize the use of telecommunications to intercept private communications. Although there are certain conditions that must be met, jurisprudence has shown that intercepting private communications without a warrant violates section 8 of the Charter and cannot be justified under section 1.

It is precisely the requirement for a search warrant and the respect of restrictions and safeguards that the Supreme Court was able to confirm the constitutionality of Section VI of the Criminal Code in a number of decisions.

Thus, only authorization from the Minister of Defence could allow the Communications Security Establishment to intercept private communications to or from a foreign point.

Even though clause 62 of Bill C-36 is based on real and urgent objectives, even though there is a rational link between intercepting private communications and preventing terrorist attacks and even though the means would not be completely arbitrary, since certain criteria would have to be met, the test of minimal impairment is not met.

In fact, other less invasive measures could be implemented, including the requirement for a warrant to intercept private communications and safeguards that would at least balance the discretionary powers of the Minister of National Defence, should these powers not be given to a neutral and impartial judge. On this, the committee recommends requiring legal authorization when possible and appropriate. I agree entirely.

Honourable senators, I therefore hope that the government will accept these recommendations and I propose, officially, that this report be adopted by the Senate.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[English]

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SEVENTH REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the seventh report of the Standing Committee on Rules, Procedures and the Rights of Parliament (official third party recognition) presented in the Senate on November 6, 2001.—(*Honourable Senator Austin, P.C.*).

Hon. Jack Austin moved the adoption of the report.

He said: Honourable senators, the Standing Committee on Rules, Procedures and the Rights of Parliament met on several occasions to deal with the question of third parties and their standing in this chamber. This question was raised by Senator St. Germain. The committee has unanimously recommended to this chamber that certain rules be adopted in anticipation that at some future time third parties may have standing in this chamber.

The key issues for the committee were essentially two. First, what defines a party? Second, what representation should be required to reach the level of official status as a third party?

In brief, the committee's recommendation is that a third party should be one that is recognized as a political party under the Canada Elections Act, and that to obtain that recognition a party must run a minimum of 50 candidates in a federal election. Should a third party do so, it would be recognized under the Canada Elections Act as a party for the purposes of that

legislation. That would found the basis on which the next step would take place; that is, that a presence in this chamber of five senators adhering to that third party would then constitute an official third party in this chamber.

Honourable senators, the committee unanimously believes that this is an effective form of recognition for senators who wish to be associated with a third party.

I should like to touch briefly on the consequences of recognition of a third party. Essentially, the consequences are to provide a place in the order of debate and to provide that allowances be paid to the leader, deputy leader and whip of a third party. As we have noted in our recommendations, such allowances would require amendments to the Parliament of Canada Act.

We recommend that the *Rules of the Senate* be reviewed and that the standing committee of which I am chair bring proposed amendments to the Senate following adoption of this report by the Senate. We have not prepared rules pending the decision of this chamber.

The first recommendation is that the Senate accord official recognition to parties that are registered as parties under the Canada Elections Act at the time that recognition is sought in the Senate and that have at least five members in the Senate. Recognition would be withdrawn only if the party's membership in the Senate fell below five members.

•(1530)

To explain that recommendation, it may be that at a future time the party to which these five senators belong has lost its registered standing under the Canada Elections Act, because it does not meet those tests. Nonetheless, our suggested rule is that, if there are five senators who support that party at a time when it was qualified to be recognized as a third party, then the standing of that third party would continue in this chamber as long as there were five senators adhering to its caucus.

Honourable senators, I could go on, and I am sure you would love to have me continue to discuss this issue. However, I would be pleased to take questions, or to adjourn the debate in the name of Senator St. Germain who has asked me to do so, with the consent of honourable senators.

Hon. Eymard G. Corbin: Honourable senators will do what they wish, but I rose with the intention of asking for an adjournment of the debate. I am here and Senator St. Germain is not here.

Hon. Anne C. Cools: Honourable senators, I should like to ask a question of Senator Austin.

The Hon the Speaker *pro tempore*: Will you take questions, Senator Austin?

Senator Austin: Certainly.

Senator Cools: I thank Senator Austin for his report. This report speaks about third parties. I am wondering why the term “third political party” is not used. “Third party” has a restrictive meaning in law, and there is the possibility of confusion. When I saw the item on the Order Paper, I found myself going to the report to find out what “third parties” we were speaking about, and I discovered it was third political parties. That is my first question.

My second question deals with the number five. Five members of this chamber are necessary to be treated within this process as a political party. I found my imagination running to figure out why the number five and why not six, four or ten? As the honourable senator would know, in a court judgment some months ago the judge in the case said that a political party could be composed of two or three members. The Standing Senate Committee on Legal and Constitutional Affairs encountered that judgment when we were studying the electoral bill.

Could the honourable senator give us a more detailed explanation in regard to the language of the report as to the selection of the number five? Some senators may have a different proposal for a different number for a different set of reasons.

Senator Austin: I thank Senator Cools for her questions.

On the first question, the definition of “party” is that contained in the Canada Elections Act. Our recommendation under paragraph 13 is that a party must be registered under the Canada Elections Act at the time that recognition is sought in the Senate. That statute provides for the conditions precedent.

I mentioned in my short comments in introducing the report that part of the provision of the statute for recognition is that, at minimum, 50 candidates should have run under that party label in the previous federal election. We do not need to go beyond the definition of a party that is contained in the legislation; rather, we need to fit exactly and on all fours with that definition.

On the second question about the figure of five members, essentially, we followed the leadership of the House of Commons with respect to its ratio. Our report discusses how they came to the figure 12 as the official number for a party. Through serendipity, it turns out, as the report notes, there was a party with 12 elected members, and the other place accommodated that party with official status at that level. They are 301 members and we are 105. The wisdom of the committee was to take a proportional number — and that number is five — and to follow generally the practices of the other place on this particular subject.

Honourable senators, that is the best answer I can give you.

Senator Cools: I thank Senator Austin for that response. Essentially I now understand the thinking behind the proposal; you looked at the ratio within the House of Commons and adopted the same formula.

I understand that you are relying on the definition of “political party” within the Canada Elections Act in regard to “third party.”

However, my first question related more to why you are not using the term “third political party,” rather than just “third party.” I understand that you use the Canada Elections Act as a point of reference. However, if you look to the wording in the report, you keep saying “third party,” and I am wondering why you are not more explicit in the report and say “third political party” or “other political parties?”

Senator Austin: On the advice of counsel to the Senate, we linked the definition specifically to the definition of “political party” under the Canada Elections Act. One cannot be more specific than that. However, it is a definition by reference to the Canada Elections Act.

Senator Cools: I would like to make it clear that I would like to speak to this report. I believe Senator Corbin was ahead of me: does he wish to take the adjournment or shall I?

[Translation]

Senator Corbin: Honourable senators, I should like to adjourn debate, but before doing so I would just like to say that, in my opinion, the content of this report would make a fundamental change in the nature of this legislative assembly that is the Senate. It would be made more partisan.

I am not at all convinced this is the way to go. Great democrat that I am, open to anything that fosters democracy, I still think that we need to take time to think very seriously about the consequences of adopting such a report. I appreciated Senator Austin's explanations that this is not a rule being proposed to us, because these come after adoption of the report.

However, before the matter of third political parties is addressed, we need to deal with the situation of the independent senators, who do not have the same ability to fully exercise their power as individuals as do senators affiliated with recognized parties.

The government and opposition parties are the only ones I recognize here in the Senate. There is never any reference to the Liberal Party, or the Conservative Party, in the Senate; it is always the government and the opposition.

If these recommendations are retained, we will be fundamentally changing the forces present in the Senate, which will further complicate our work.

•(1540)

Let the House of Commons do as it wishes, comply with the Canada Elections Act, but we are not an elected chamber and that is where all the difference lies. I call for adjournment of the debate.

[English]

Hon. Terry Stratton: Honourable senators, I should like to move the adjournment of the debate in the name of Senator St. Germain. Senator Corbin has already spoken.

Senator Corbin: I can interpret myself.

Honourable senators, I had indicated earlier that it was my intention to adjourn the debate. Then I said, "Before doing so, I have a few comments to make," and before sitting down, I said, "I adjourn the debate," when I should have said, "I move the adjournment of the debate." I have not used my full time.

Hon. Marcel Prud'homme: Honourable senators, I withdraw my request to ask questions. Could the Chair indicate to us how long we can speak in situations when we say, "I intend to adjourn the debate, but before doing so, let me tell you about this"?

Senator Robichaud: Fifteen minutes.

Senator Prud'homme: As I did yesterday, I sometimes say more by speaking very little. I made a mistake yesterday on the question of the Middle East, and I will correct it in due time. I should have spoken 15 minutes, and then I would have had time to correct myself. I would like to have it indicated eventually, not today, how long we can speak when we stand up to say that we want to adjourn the debate, but continue to speak until we ask for the adjournment.

Senator Corbin: Honourable senators, it is a matter of courtesy. I was probably a little too quick in asking to adjourn the debate. This issue was raised by Senator St. Germain, and it would be most proper for him to respond first to the report. I withdraw. However, I will speak later.

On motion of Senator Austin, for Senator St. Germain, debate adjourned.

PROGRESS ON BANNING OF ANTI-PERSONNEL LAND MINES

INQUIRY

Hon. Sheila Finestone rose pursuant to notice of November 20, 2001:

That she will call the attention of the Senate to the world's current state of progress in relation to the Ottawa Convention on the Banning of Anti-Personnel Land Mines.

She said: Honourable senators, I rise today to give a brief update on the ongoing land mine elimination campaign, which celebrates its fourth anniversary on December 3. In many respects, land mines are a weapon of terror because of their devastating impact on civilians and communities. In this sense, the Ottawa convention is not just an international component of international law, it has inadvertently become an essential tool in the fight against terrorism.

What I am about to share with you today, derives in part from Mines Action Canada's recent newsletter, the *Landmine Banner*, which is a well-written document. On September 12, 2001, the Nobel Peace Prize winning International Campaign to Ban Landmines, ICBL, released its third annual report, a 1,100-page

document entitled "Landmine Monitor Report 2001: Toward a Mine-Free World." The report represents the most comprehensive report in the world on the global land mine situation containing information on every country in the world with respect to mine use, production, trade, stockpiling, humanitarian de-mining and mine survivor assistance.

Landmine Monitor is an unprecedented initiative by the ICBL to monitor implementation of and compliance with the 1997 Mine Ban Treaty, and, more generally, to assess the efforts of the international community to resolve the land mine problem. Landmine Monitor Report 2001 focuses on a reporting period from May 2000 to mid-2001. I will bring some major findings from this report to your attention, but I reserve the right to discuss the question of those who are in need of mine survivor assistance at another time.

An ever-growing number of governments are joining the Mine Ban Treaty. A total of 122 countries have ratified and 22 have signed, constituting three quarters of the world's nations, and the Landmine Monitor was happy to report fewer land mine victims. Although it estimates 15 to 20,000 new casualties from land mines and unexploded ordinance in the year 2000, this represents a decrease of the commonly cited figure of 26,000 victims per year previously. Unfortunately, I suggest to you that the recent news reports from Afghanistan imply that the victim count will be higher, and it will escalate to an inordinate amount this time.

The Landmine Monitor also reports a dramatic drop in the production of anti-personnel land mines. The number of producers has dropped from 55 to 14 over the past few years. Among those no longer producing anti-personnel land mines are Turkey and Yugoslavia, both non-signatories to the Mine Ban Treaty. It is exciting to note the progress that has been made, and the initiative that was Canadian at the outset has had a significant impact on improving the quality of life around the world.

Last year, land mine clearance took place in 42 countries. In the majority of these, clearance was done through humanitarian techniques that aim at using local resources and preserving local infrastructure, such as houses, water and electricity sources. Inch by inch, hour after hour, de-miners painstakingly search for these hidden killers using specially trained dogs, metal detectors, manual prodders and light projective equipment.

•(1550)

They have looked for other methods of doing this, such as using helicopters to set off these mines, but there are too many problems with that. We are asking the engineering societies across Canada during the coming year to enter into a competition to find and develop new techniques that could make this a much safer undertaking.

De-miners are in constant danger, with many losing limbs and even their lives while clearing land. Some land mines are hard to isolate because they relocate in windstorms and rainstorms. In areas that are supposedly cleared, there can be movement underground, and the supposedly clear areas are not safe any longer.

Almost any area can become a minefield — schoolyards, houses, farmland, electricity towers or markets — and can contain anywhere from one to more than 1,000 land mines. Even a suspicion of land mines in an area will result in large tracts of land, particularly farmland, not being used by communities. They are scared.

Clearing a suspected minefield is no simple task, a matter to which I can personally attest, having suited up myself not so many years ago in Cambodia, as well as in Mozambique. Along with other members of an inter-parliamentary union meeting, I watched the army in Jordan work in the heavy undergrowth around the Jordan River. It is really quite daunting to pick up a wand, get dressed in an outfit and go into the field with these de-miners and our Canadian engineering corps to see what this is all about. It is quite scary, to tell you the truth.

Another person who knows about this is Robin Collins, Co-Chair of Mine Action Canada. He says:

In order to restore the land safely back to the community, every inch of ground has to be checked and doubled-checked with 100 per cent confidence. The biggest...mine clearance —

— test —

— is the confidence the de-miner has in walking across the cleared land. Regardless of what technology is used...you cannot remove the human component from the de-mining process.

The human component is equally critical off the immediate battlefield, and we can be part of that effort to clear that land.

I hope all of us will support Senators Elizabeth Hubley and Ione Christensen in putting together the Senate Night of 1,000 Dinners. The event is to take place on November 28. One hundred per cent of the money raised will go to land mine clearance, so let us all do our part and support this important, humanitarian initiative. If senators cannot attend the dinner, have one in your own home, have one in your own neighbourhood, or just send money. Give generously out of your pocket, and you will get a full tax credit. Please make your cheques payable to the Canadian Land Mine Foundation.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, I wish to speak to this issue for a few minutes right now. I will be brief. I wish to pay tribute to Senator Finestone. I must say that I like to congratulate her in person on the extraordinary work done on this issue in a parliamentary association which is dear to me. It is the association I love best, but one from which I am unfortunately excluded by the rules, although perhaps one day she will be able to help me back into the Inter-Parliamentary Union.

Anyone who knows Senator Finestone knows that when she devotes herself to a cause, she devotes herself to it 100 per cent.

I must say that both as a member of the Inter-Parliamentary Union's international executive in Geneva, and as the director of our Canadian branch — of which I am a member for the time being — she has led the charge in her determination. As another tribute to her, it should be pointed out that she was made a *chargé de mission* to other countries on several occasions in order to get the number of countries necessary to look into this matter.

I merely wanted to bear witness because it says in the Bible and in the Koran that one must never hesitate to witness to what one has seen or heard. I have seen her in action and I wish to say so to the Senate. I also wish to say that I am sorry that the Government of Canada — but this is not her fault — does not understand that there are in the Senate of Canada senators with talents for all sorts of causes.

In France, the President appoints senators and they become *chargés de mission*, according to their talents, and report directly to the head of government. In life, one must know how to use the talents available to one. The Senate of Canada probably has talents for any cause you can think of.

[English]

I will say this in English for Dr. Keon. Here is a man who is known, believe it or not, in Saudi Arabia. The best doctors in his field in Saudi Arabia are all trained by Senator Keon. They are proud to say that they have been trained by a Canadian, Dr. Keon.

I think all of us have some talent to offer to Canada. I would use this little intervention to open that door. Perhaps Senator Robichaud could transmit this message to the government. Senator Graham is a great friend of mine. I did not expect to see this motion.

[Translation]

I merely wished to draw attention to the impeccable work done by Senator Finestone on this issue, on behalf of the Government of Canada and on behalf of this treaty.

[English]

Hon. B. Alasdair Graham: Honourable senators, I should like to say a word on this particular topic. Senator Prud'homme has drawn me into the discussion, perhaps inadvertently, perhaps purposely.

My first words would be those of congratulations to Senator Finestone for her consistency on this most important topic, not just to Canadians but to people around the world. She referred to her own experience of getting suited up and watching Canadian engineers in our Armed Forces going through the de-mining process. I have never had that experience, but I did have a rather interesting experience when I was asked in 1989 to go to Namibia in advance of the first free elections in that country in many years.

As honourable senators know, Namibia had been ruled illegally by South Africa for over 30 years. Steps were taken by countries around the world to rectify the situation. The movement was led by the United Nations. A group of us was asked to go to Namibia to determine whether the election law was fair, what the conditions were, and whether we could make recommendations to improve the situation.

In flying from Windhoek, the capital of Namibia, up to Oshakati, which is near the Angolan border, we flew at treetop level for quite some time.

• (1600)

I was sitting next to the pilot, and I turned to him and said, "This is the longest approach to an airport I have ever made in my life." He replied: "Did they not tell you?" I asked him, "Did they not tell me what?" The pilot then said to me: "We have to fly at this level in order to avoid possible ground-to-air missiles."

We landed in Oshakati, where I met with some United Nations officials and representatives of police forces from around the world. Then it was suggested that perhaps I should go out into the countryside and meet with some of the headmen, as they call them — leaders of tribes and so on — to which I readily agreed. I was asked whether we should go by the main highway or the back roads. I replied, "Perhaps it would be more interesting to go via the back roads."

In the course of the journey, my driver said to me: "On April 1, I saw 30 bodies over there." There had been an incursion from Angola into Ovamboland. During our discussion, I asked the driver whether UNTAG soldiers ever come out here. He replied that they did not, and I asked why. "Because they do not have casspirs," he said. Casspirs are huge trucks with reinforced steel bottoms that are built to withstand the blast of a land mine. When I asked the driver whether there were land mines in this area, he replied that there were. To that, I said: "What in the name of God are we doing out here?" He said to me: "I know where the land mines are. I know the way."

We proceeded, honourable senators, to the border, where we met some Canadian peacekeepers. I invited the Angolan soldiers from the other side of the line to come over and meet with peacekeepers from several countries, including Canada, and they did.

The outcome was that we did make our recommendations for improvements to the electoral law and several other areas, 75 per cent of which were approved.

On that occasion, we urged Martti Ahtisaari, later the president of the Finland and who was the special representative of the Secretary-General of the United Nations, to exercise his authority under Resolution 435 of the United Nations. Subsequent to that, we met with Louis Pienaar, the former South African ambassador to France, who was then the administrator on behalf of South Africa in Namibia. We urged him to go along with the changes that we were recommending. He did not accept all of our

recommendations, but, indeed, as I said, 75 per cent of them were accepted.

Honourable senators, that was just a little story about my closest experience with land mines. The central purpose of my rising on this occasion is to congratulate Senator Finestone for her interest and her initiative in this particular respect.

[Translation]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

STUDY OF DOCUMENT ENTITLED
"SANTÉ EN FRANÇAIS — POUR UN MEILLEUR ACCÈS
À DES SERVICES DE SANTÉ EN FRANÇAIS"—
MOTION—DEBATE ADJOURNED

Hon. Jean-Robert Gauthier, pursuant to notice of September 19, 2001, moved:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report on the document entitled "Santé en français — Pour un meilleur accès à des services de santé en français."

He said: Honourable senators, I would like to tell you about a voluminous report released in June by the Fédération des communautés francophones et acadiennes (FCFA), which is entitled "Santé en français — Pour un meilleur accès à des services de santé en français" and, in English, "Improving Access of French-Language Health Services."

That project was funded by the federal Department of Health. The report deals with access to French-language health services by minorities in Canada. The Fédération des communautés francophones et acadiennes coordinated the study for the Comité consultatif des communautés francophones vivant en situation minoritaire, or the advisory committee on minority francophone communities.

I should like to talk about the conclusions of that report and propose that this document be referred to the Standing Senate Committee on Social Affairs, Science and Technology for review and consideration.

First, let us look at the importance of language in the provision of any health service. In my opinion, sound communication is the basis of any health service. Indeed, the ability to understand a patient's health problem and to ask questions, advise, inform, educate and treat that patient in the official language of his choice is an integral part of the quality of any health service in Canada.

Can we imagine an elderly person not being able to be understood by a nurse when he calls for help in a state of crisis? Can we imagine a woman trying to express her suicidal thoughts to a psychiatrist in a second language that she does not master? Can we imagine a child who tells the emergency room doctor that he is feeling sick, only to be treated as cardiac patient?

These are extreme examples, but they illustrate the importance of proper communication between the medical staff and the patient to ensure the quality of health services. This is why an advisory committee on minority francophone communities was set up to make recommendations to the Department of Health on this issue.

The FCFA undertook a vast study at the request of the advisory committee to evaluate French-language health services in the Canadian provinces and territories. Moreover, a national forum with over 200 participants was held in Moncton, on November 3 and 4.

The issue is topical and so I thought I would tell you today about the report. Today, the honourable senators were approached by representatives of the Fédération, and I hope they had a chance to discuss the report with them and familiarize themselves with their concerns.

The Official Languages Act clearly states that departments are included in the definition of federal institutions and that they are responsible for implementing measures to promote, develop, support and even foster services to francophones.

The term "interdepartmental" refers to the responsibility shared by Health Canada, in particular, with all the other departments and agencies that make up our government. In this light, the issue has aroused keen interest among those who have followed these matters closely over the past few years.

The report, entitled "Improving Access to French-Language Health Services," describes the precarious health status of francophones in minority-language communities. These French-speaking Canadians are in general older, less likely to be working and have fewer years of schooling.

Before 1972, there were no French-language secondary schools, apart from private institutions that served only the affluent. Today, French-language education is available right across the country. There are French elementary, secondary and post-secondary institutions and I must say I am very proud of that.

• (1610)

The study used the definition of health adopted by the World Health Organization, that is a state of complete physical, mental, and social well-being.

The study looked at a continuum of care, starting with health promotion, disease prevention and health protection. To this must be added health maintenance, community care, institutional care and specialized institutional care.

The study is broad. It looked into 63 categories of service in public, physical and mental health, six kinds of delivery points — medical clinics, community health centres, home care, hospitals, other care institutions, and community organizations —, in 68 regions across the country, for four levels

of accessibility in French: no service, little service, partial access or full access.

The situation in terms of access to all these health services is, as you can guess, not very good. Generally, information gathered on site has shown: that half of francophones have little or no access to health services in French; that there are significant variations between the provinces and between the regions in certain provinces; that, in addition, less than a quarter of the 63 communities observed have access to services in French; that there are important differences in the various kinds of services offered; and, finally, that there are also important differences according to location. In fact, the level of inaccessibility for the French-speaking community is three times higher than that for the English-speaking community.

The study points out that the development of health services in French has followed a path, in time and in space, from creating awareness to creating structures and finally to consolidating services. It places the provinces and territories on a curve that traces these three developmental phases. For example, New Brunswick, where the Acadians make up one third of the population, is in the consolidation phase, Ontario and Manitoba are in the creating structures phase, and the other provinces are at various levels in the awareness phase.

It concerns accessibility. I will give you one striking example. Yesterday there was a death notice in *Le Droit* for a friend of mine, Jean Tanguay of North Bay. He had headed the ACFO for two terms. About four years ago, he had a heart attack and was admitted to hospital. He had already had a brush with death back in 1992, with a heart attack toward the end of his first two-year term as President of the ACFO. At that time he deplored the fact that, in the city of his birth, emergency and intensive care staff had not been able to speak to him in his mother tongue. Yet francophones account for 25 per cent of the population of North Bay. In an article in his local newspaper, he confided that it had always been his wish to die in French. An ACFO colleague, Anita Corriveau, is quoted as saying that she is not certain he saw that wish fulfilled.

This man was one of the leading lights of Ontario's francophonie. For eight years, he did everything possible to help the francophone cause, yet he could not die in his own language. He was not able to get treatment in French. Yet North Bay is not the far north.

The report sets out certain tools that could perhaps be used to improve service. The main ones would be situations that promote networking and training of francophone interveners — we have a shortage of doctors in the country. It is hard to get new graduates to go and practice in the north, centres providing health care in French, such as community health centres. The use of technology in such projects as telemedicine and teledialysis, remote consultation and dialysis services — is feasible today and will be soon be used so that remote regions will have medical services that are as advanced as those in urban centres. It can be done by radio, television or the Internet. I have been there.

I will tell you about my experience. At the Ottawa General Hospital, my doctor communicated with a physician in Texas about my illness. If it is possible to speak to Texas from Ottawa, it must be possible to speak to North Bay from Ottawa to provide up-to-date care and professional service. The study is important for us. At page 40, it provides that improved access to health care in French will be all the easier if it is based on the concerted efforts of three main groups of stakeholders: communities, institutions and political authorities. The community must demand and promote these services. There must be means to plan, coordinate and deliver these services. And the last, but not the least, factor is that there must be a political will, a commitment by government recognizing through policies, legislation and regulations the importance of access to health care services in French.

Based on the percentage of francophones in the 63 Canadian regions that were looked at, the study defines the above-mentioned tools that should have priority. It categorizes the level of access to French-language health services as: minimum, basic and advanced.

Where the percentage of francophones is sufficient, as in eastern Ontario for example, we must support the establishment of francophone structures where the medical staff and patients can communicate in French. This is the case, for example, at the Montfort Hospital, which you have all heard about in recent years. I am taking this opportunity to reiterate my support to maintaining and developing this institution, which provides health care services not only in French, but also in English, and which also provides highly specialized clinical training in French to the medical staff. The Montfort is the only hospital of its kind in Ontario. If it did not exist, we would have to invent it. According to the study, it must be maintained, but we do not know for sure if it will be. We have been waiting five or six months for the ruling of the divisional court of the Ontario Court of Appeal. There is some hesitation.

I know that negotiations are currently taking place to try to keep the Montfort, to try to make it even more efficient, even though it is already one of the most efficient institutions in Ontario. The government itself says so. There is light at the end of the tunnel, there is a solution to the problem.

I know because I have been working on the solution for four or five months. I hope we can keep the Montfort and give French-speaking Canadians a professional and competent service.

• (1620)

Honourable senators, I will end by quoting from page 62 of the report:

Because of its own intrinsic value, as well as its importance to society, health care must be a priority for all

government authorities, federal and provincial, and for all institutions involved in health and education, as well as for every one of the minority French-language communities.

I urge you to consider the report, so that in committee we can all find out more about the needs of a community that numbers more than a million Canadians across the country. In the year 2002, all these Canadians should have access to modern and competent medical care.

On motion of Senator Morin, debate adjourned.

[English]

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Hon. Jim Tunney, for Senator Gustafson, pursuant to notice of Wednesday, November 21, 2001, moved:

That the Standing Senate Committee on Agriculture and Forestry have the power to sit at 3:30 p.m. on Thursday, November 29, 2001, to hear from the Minister of Agriculture and Agri-food, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

[Translation]

ADJOURNMENT

Leave having been given to revert to government Notices of Motion:

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, November 27, 2001, at 2 p.m.

The Hon. the Speaker pro tempore: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned to Tuesday, November 27, 2001, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(1st Session, 37th Parliament)
Thursday, November 22, 2001

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act respecting marine liability, and to validate certain by-laws and regulations	01/01/31	01/01/31	—	—	—	01/01/31	01/05/10	6/01
S-3	An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts	01/01/31	01/02/07	Transport and Communications	01/05/03 amended 01/05/09	3	01/05/10	01/06/14	13/01
S-4	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	01/01/31	01/02/07	Legal and Constitutional Affairs	01/03/29	0 + 1 at 3rd	01/04/26	01/05/10	4/01
S-5	An Act to amend the Blue Water Bridge Authority Act	01/01/31	01/02/07	Transport and Communications	01/03/01	0	01/03/12	01/05/10	3/01
S-11	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	01/02/06	01/02/21	Banking, Trade and Commerce	01/04/05	17 + 1 at 3rd	01/05/02 Senate agreed to Commons amendments 01/06/12	01/06/14	14/01
S-16	An Act to amend the Proceeds of Crime (Money Laundering) Act	01/02/20	01/03/01	Banking, Trade and Commerce	01/03/22	0	01/04/04	01/06/14	12/01
S-17	An Act to amend the Patent Act	01/02/20	01/03/12	Banking, Trade and Commerce	01/04/05	0	01/05/01	01/06/14	10/01
S-23	An Act to amend the Customs Act and to make related amendments to other Acts	01/03/22	01/05/03	National Finance	01/05/17	11 + 2 at 3rd (01/06/06)	01/06/07	01/10/25	25/01
S-24	An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence	01/03/27	01/04/05	Aboriginal Peoples	01/05/10	0	01/05/15	01/06/14	8/01
S-31	An Act to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	01/09/19	01/10/17	Banking, Trade and Commerce	01/10/25	0	01/11/01		

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-33	An Act to amend the Carriage by Air Act	01/09/25	01/10/16	Transport and Communications	01/11/06	0	01/11/06		
S-34	An Act respecting royal assent to bills passed by the Houses of Parliament	01/10/02	01/10/04	Rules, Procedures and the Rights of Parliament					

**GOVERNMENT BILLS
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Employment Insurance Act and the Employment Insurance (Fishing) Regulations	01/04/05	01/04/24	Social Affairs, Science and Technology	01/05/03	0	01/05/09	01/05/10	5/01
C-3	An Act to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act	01/05/02	01/05/10	Energy, the Environment and Natural Resources	01/06/06	0	01/06/12	01/06/14	18/01
C-4	An Act to establish a foundation to fund sustainable development technology	01/04/24	01/05/02	Energy, the Environment and Natural Resources	01/06/06	0	01/06/14	01/06/14	23/01
C-6	An Act to amend the International Boundary Waters Treaty Act	01/10/03	01/11/20	Foreign Affairs					
C-7	An Act in respect of criminal justice for young persons and to amend and repeal other Acts	01/05/30	01/09/25	Legal and Constitutional Affairs	01/11/08	11			
C-8	An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions	01/04/03	01/04/25	Banking, Trade and Commerce	01/05/31	0	01/06/06	01/06/14	9/01
C-9	An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act	01/05/02	01/05/09	Legal and Constitutional Affairs	01/06/07	0	01/06/13	01/06/14	21/01
C-11	An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger	01/06/14	01/09/27	Social Affairs, Science and Technology	01/10/23	0	01/10/31	01/11/01	27/01
C-12	An Act to amend the Judges Act and to amend another Act in consequence	01/04/24	01/05/09	Legal and Constitutional Affairs	01/05/17	0	01/05/29	01/06/14	7/01
C-13	An Act to amend the Excise Tax Act	01/04/24	01/05/01	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	15/01
C-14	An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts	01/05/15	01/05/30	Transport and Communications	01/10/18	0	01/10/31	01/11/01	26/01
C-15A	An Act to amend the Criminal Code and to amend other Acts	01/10/23	01/11/06	Legal and Constitutional Affairs					
C-17	An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act	01/05/15	01/05/30	National Finance	01/06/07	0	01/06/11	01/06/14	11/01
C-18	An Act to amend the Federal-Provincial Fiscal Arrangements Act	01/05/09	01/05/31	National Finance	01/06/12	0	01/06/12	01/06/14	19/01
C-20	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	1/01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	2/01
C-22	An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act	01/05/15	01/05/30	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	17/01
C-24	An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts	01/06/14	01/09/26	Legal and Constitutional Affairs					
C-25	An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts	01/06/12	01/06/12	Agriculture and Forestry	01/06/13	0	01/06/14	01/06/14	22/01
C-26	An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco	01/05/15	01/05/17	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	16/01
C-28	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	01/06/11	01/06/12	—	—	—	01/06/13	01/06/14	20/01
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/06/13	01/06/14	—	—	—	01/06/14	01/06/14	24/01
C-31	An Act to amend the Export Development Act and to make consequential amendments to other Acts	01/10/30	01/11/20	Banking, Trade and Commerce					
C-32	An Act to implement the Free Trade Agreement between the Government of Canada and the Government of the Republic of Costa Rica	01/10/30	01/11/07	Foreign Affairs	01/11/21	0	01/11/22		
C-33	An Act respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts	01/11/06 (withdrawn 01/11/21) 01/11/22 (reintroduced)							
C-34	An Act to establish the Transportation Appeal Tribunal of Canada and to make consequential amendments to other Acts	01/10/30	01/11/06	Transport and Communications					
C-38	An Act to amend the Air Canada Public Participation Act	01/11/20							
C-40	An Act to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain provisions that have expired, lapsed, or otherwise ceased to have effect	01/11/06	01/11/20	Legal and Constitutional Affairs					

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
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SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5	referred back to Committee 01/10/23		
S-7	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	01/01/31	01/02/07	Transport and Communications	01/06/05	0	01/06/07		
S-8	An Act to maintain the principles relating to the role of the Senate as established by the Constitution of Canada (Sen. Joyal, P.C.)	01/01/31	01/05/09	Rules, Procedures and the Rights of Parliament					
S-9	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	01/01/31							
S-10	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	01/01/31	01/02/08	—	—	—	01/02/08		
S-12	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	01/02/07	01/03/27	Social Affairs, Science and Technology					
S-13	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	01/02/07	01/05/02	Rules, Procedures and the Rights of Parliament (Committee discharged from consideration—Bill withdrawn 01/10/02)					
S-14	An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	01/02/07	01/02/20	Social Affairs, Science and Technology	01/04/26	0	01/05/01		
S-15	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	01/02/07	01/03/01	Energy, the Environment and Natural Resources	01/05/10	0	01/05/15	Bill withdrawn pursuant to Commons Speaker's Ruling 01/06/12	
S-18	An Act to Amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	01/02/20	01/04/24	Social Affairs, Science and Technology (withdrawn) 01/05/10 Energy, the Environment and Natural Resources					
S-19	An Act to amend the Canada Transportation Act (Sen. Kirby)	01/02/21	01/05/17	Transport and Communications					

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	01/03/12							
S-21	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	01/03/13		Subject-matter 01/04/26 Social Affairs, Science and Technology					
S-22	An Act to provide for the recognition of the <i>Canadien</i> Horse as the national horse of Canada (Sen. Murray, P.C.)	01/03/21	01/06/11	Agriculture and Forestry	01/10/31	4	01/11/08		
S-26	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	01/05/02	01/06/05	Transport and Communications					
S-29	An Act to amend the Broadcasting Act (review of decisions) (Sen. Gauthier)	01/06/11	01/10/31	Transport and Communications					
S-30	An Act to amend the Canada Corporations Act (corporations sole) (Sen. Atkins)	01/06/12	01/11/08	Banking, Trade and Commerce					
S-32	An Act to amend the Official Languages Act (fostering of English and French) (Sen. Gauthier)	01/09/19	01/11/20	Legal and Constitutional Affairs					

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (Sen. Kroft)	01/03/29	01/04/04	Legal and Constitutional Affairs	01/04/26	1	01/05/02	01/06/14	
S-27	An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	
S-28	An Act to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	

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